

195
No. 2728

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration,

Appellee.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration, as bailee of a cargo of lumber consisting of
3,563,011 feet, and for the use and benefit of the owners
and insurers of said cargo,

Appellee.

APOSTLES ON APPEAL

(In Five Volumes)

(Vol. 1—Pages 1 to 304)

From the United States District Court for the Western Dis-
trict of Washington, Southern Division.

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Clerk.

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In the District Court of the United States for the Western District of Washington, Southern Division.

NO. 1036—CONSOLIDATED CASES.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Libellant,

vs.

Steamship "VIRGINIAN," her tackle, apparel, furniture,
boilers and engines, Respondent,
AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation,
Claimant and Cross Libellant,
STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Claimant.

NO. 1052.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use
and benefit of the owner and insurers of
said cargo, Libellant,

vs.

Steamship "VIRGINIAN," her tackle, apparel, furniture,
boilers and engines, Respondent,
AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation,
Claimant and Petitioner,
Steamship "STRATHALBYN," her tackle, apparel, furniture, etc.,
Respondent,
STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Claimant.

NAMES AND ADDRESSES OF COUNSEL.

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Proctors for Strathalbyn Steamship
Company, Ltd., as bailee, Libelant.

STATEMENT.

Time of Commencement of Cause 1036, January 15th, 1912.

Time of Commencement of Cause 1052, February 8th, 1912.

Names of parties: Strathalbyn Steamship Company, Ltd., a corporation, Libelant and Claimant in Cause 1036 and Claimant in Cause 1052; American-Hawaiian Steamship Company, a corporation, Claimant and Cross Libelant in Cause 1036 and Claimant in Cause 1052; Strathalbyn Steamship Company, Ltd., a corporation, as bailee of cargo of lumber, consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo, Libelant in Cause 1052.

Dates when pleadings were filed:

Libel in Cause 1036 on January 15th, 1912.

Answer and cross libel in Cause 1036 on January 19th, 1912.

Answer to Cross Libel in Cause 1036 on February 16th, 1912.

Libel in Cause 1052 on February 8th, 1912.

Motion to dismiss or consolidate in Cause 1052 on March 7th, 1912.

Order of Consolidation in 1036 and 1052 on March 18th, 1912.

Petition of American-Hawaiian Steamship Company in Cause 1052, on March 13, 1912.

Answer of Strathalbyn Steamship Company, Ltd., to Petition in Cause 1052, on March 20, 1912.

Answer of Strathalbyn Steamship Company to Libel in Cause 1052, on March 18, 1914.

Stipulation as to answer of American-Hawaiian Steamship Company to Libel in Cause 1052, on December 4, 1915.

Issuance of Process and Service thereon:

On January 15, 1912, upon the filing of the libel in Cause 1036, monition and attachment were duly issued out of and under the seal of the United States Marshal for the Western District of Washington; said monition was by said Marshal, on the 17th day of January, 1912, returned to said Clerk's office, showing by said Marshal's return endorsed thereon attachment of the Steamship "Virginian" on January 15, 1912, and the release of said steamship on January 17, 1912, upon a stipulation signed by said American-Hawaiian Steamship Company, Claimant, as principal, and American Surety Company, of New York, as surety.

On January 19, 1912, after the filing of the cross-libel in Cause 1036, a monition and attachment were duly issued out of and under the seal of said Court and delivered to the United States Marshal for the Western District of Washington; said monition and attachment were by said Marshal, on January 23, 1912, returned to said Clerk's office, showing by the Marshals return endorsed thereon the attachment of the Steamship "Strathalbyn" on January 19, 1912, and the release of said steamship on January 23, 1912, upon a stipulation signed by libelant in said Cause 1036, as principal, and National Surety Company, as surety.

On February 8, 1912, upon the filing of the libel in Cause 1052, monition and attachment were duly issued out of and under the seal of said court and delivered to the United States Marshal for the Western District of Washington; the said monition and attachment were

by said Marshal on the 9th day of February, 1912, returned to said Clerk's office, showing by said Marshal's return endorsed thereon the attachment of the Steamship "Virginian" on February 8th, 1912, and the release of said steamship on February 9th, 1912, upon a stipulation signed by said American-Hawaiian Steamship Company, Claimant, as principal, and American Surety Company of New York, as surety.

On March 13th, 1912, after the filing of the Petition under the 59th Admiralty Rule of the Supreme Court of the United States by the American-Hawaiian Steamship Company, Claimant in Cause 1052, a monition and attachment were duly issued out of and under the seal of said court and delivered to the United States Marshal for the Western District of Washington; said monition and attachment were by said Marshal, on the 16th day of March, 1912, returned into the said Clerk's office, showing by said Marshal's return thereon endorsed the attachment of the steamship "Strathalbyn" on March 13th, 1912, and the release of said steamship on March 16th, 1912, upon a stipulation signed by the Strathalbyn Steamship Company, Ltd., Claimant, as principal, and National Surety Company, as surety.

Reference to Commissioner:

On January 20, 1912, the said court duly made and filed an order of reference of said Cause 1036 to Raymond J. McMillan, United States Commissioner, to take and report the testimony in said cause; and on December 10th, 1912, January 7, 1913, and May 28, 1914, said commissioner duly returned said testimony into court and the same was on the said day filed in the office of the Clerk thereof.

TRIAL.

On May 28th, 1914, said causes came on for trial and hearing before Honorable E. E. Cushman, one of the judges of said court, upon the testimony so taken before said commissioner and returned and filed in court, together with the exhibits offered in evidence by the respective parties, which were also returned by said commissioner and filed in said court, and the depositions theretofore taken and filed in said causes, and

exhibits annexed thereto. Proctors for the respective parties appeared and argued said cause in open court and thereafter submitted written briefs to said court. Thereafter, on October 10, 1914, said Judge, before whom said cause was tried and heard, duly filed his memorandum decision on the liability in said causes. Thereafter, the parties agreed as to the extent of the damages sustained by the respective parties by reason of the collision mentioned in the pleadings and filed stipulations as to the same.

DECREE.

Final decree was made and entered and filed in said causes in said District Court on November 26th, 1915.

NOTICE OF APPEAL.

Notice of appeal was served and filed on November 26th, 1915; Assignment of Errors filed December 4, 1915.

In the District Court of the United States for the Western District of Washington, Southern Division. In Admiralty.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Libellant.

VS.

The Steamship "VIRGINIAN," her tackle, apparel, furniture and boilers, and engines, Respondent.

No. 1036.

LIBEL IN REM. (of Strathalbyn Steamship Co.)

To the Honorable CORNELIUS H. HANFORD and Honorable GEORGE DONWORTH, Judges of the above entitled court, sitting in admiralty:

The libel and complaint of Strathalbyn Steamship Company, Ltd., a corporation, owner of the steamship "Strathalbyn," her tackle, apparel, furniture and boilers, against the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned the above named libellant was a corporation of the Kingdom of

Great Britain and Ireland, with its principal place of business at Glasgow, Scotland, and was the owner of the steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture.

II.

That the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, herein proceeded against is now within the Western District of Washington, and is within the jurisdiction of this court.

III.

That on Friday night, the 12th day of January, 1912, at about the hour of forty-five minutes after seven o'clock a collision occurred between the steamships "Strathalbyn" and "Virginian" on Puget Sound between Robinson Point and Pully Point.

IV.

That on said 12th day of January, 1912, at about the hour of 6:15 o'clock P. M. the "Strathalbyn" left the port of Tacoma, Washington, and started on her voyage for Sydney, N. S. W., then being fully equipped, manned and supplied, with her range and side lights properly set and brightly burning, having a lookout stationed on her fore-castle head, and in charge of a competent pilot, master and officers and crew, and having so started on her voyage continued thereon in safety until the light of Robinson Point was abeam when her course was changed to N. W. $\frac{1}{2}$ N. magnetic. When rounding Robinson point the light on Pully point was visible and also the lights of two vessels that appeared to be to the north of Pully point and approaching. That when the Strathalbyn was about half way between Robinson and Pully points she blew one blast of her whistle and receiving a similar answering blast passed port to port of the steamer "Flyer." That as soon as the steamer "Flyer" had passed the Strathalbyn, the Strathalbyn blew one blast of her whistle as a signal to the "Virginian" to pass her on the port side, both the red and the green side lights of the "Virginian" being at that time visible. The "Virginian" failed and neglected to answer the signal of the "Strathalbyn" and after proceeding for or in the neighborhood of a minute the Strathalbyn again blew one blast of her

whistle as a passing signal to the "Virginian" and the "Virginian" again failed and neglected to answer the same, the red light of the "Virginian" having theretofore closed, and after giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the held of the "Strathalbyn" her engines were stopped. That about a minute thereafter the "Strathalbyn" again sounded one blast of here whistle as a signal for the Virginian to pass her port to port and the Virginian again failing and neglecting to answer said signal and of her side lights her green light being the only one visible, the Strathalbyn backed full speed astern and sounded several blasts in quick succession as a danger signal to the Virginian and for the first time the Virginian sounded three blasts upon her whistle in answer thereto. That after a collision became imminent the Strathalbyn did everything in her power to avoid the same but such efforts were unavailing and the Virginian struck the Strathalbyn on the port bow in the vicinity of the hawse pipe and stove a hole in her and continued on through the Strathalbyn's bow and tore a hole in her starboard bow and crumpled her plates and broke her frames from her stem back to and including some four or five frames abaft the collision bulkhead, and thereby generally bent, broke and damaged the whole forward portion of the Strathalbyn, including her windlass, forecastle and other parts of the forward part of said vessel and caused a loss of and damage to a large quantity of gear, machinery and property, as well as injuring several of her crew and causing the death of one of them. That after said collision the Strathalbyn put back to the port of Tacoma as did also the Virginian. That the Strathalbyn's hold number one was full of water and she had a very heavy list and was down greatly by the head shortly after the collision and she has been very severely and greatly damaged. That at all the times mentioned herein prior to said collision and at the time thereof and thereafter until the Strathalbyn was moored in Tacoma her range and side lights were properly set and brightly burning, a lookout was stationed and attentive to his business upon the fore-

castle head, she was in charge of a competent pilot, master and crew who were at their respective posts and attentively attending to the several duties and the Strathalbyn was in every way manned and fitted for the voyage, and the collision occurred without any fault on her part, but solely through the fault, carelessness and neglect of the "Virginian" as aforesaid and in failing to keep away from the Strathalbyn.

V.

That by reason of the collision and the careless and negligent acts and omissions aforesaid done and permitted on the part of the "Virginian" libellant has suffered damage in the injury of said Strathalbyn and the loss and damage of equipment, gear and property aboard of her, and by reason of the loss of the use of said vessel and the cost and expense of removing and replacing her cargo, and repairing the damage done thereto and to said vessel, her tackle, apparel and furniture and cargo in the sum of \$160,000.00.

VI.

That the "Virginian" is a large steam vessel of a gross tonnage of approximately 7914 tons and a net tonnage of approximately 5077 tons and was partially loaded, but was high in the water compared with the fully loaded Strathalbyn.

VI.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

Wherefore libellant prays that process in due form of law and according to the practice of this honorable court may issue against the said steamship "Virginian" her engines, boilers, tackle, apparel and furniture, and that she may be condemned and sold to answer for the damage suffered by this libellant and that all persons having or pretending to have any right title or interest in said steamship "Virginian" her engines, boilers, tackle, apparel and furniture, may be cited to appear and answer all and singular the matters alleged herein, and that this Honorable court will be pleased to pronounce judgment for the damage suffered and sustained by libellant, and for such other and further

relief as shall be just and equitable, and that the libellant may have and recover its costs and disbursements herein.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant. P. O. Address: 410 Fidelity Bldg., Tacoma, Wash., where all subsequent papers, except writs and process may be served.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Jan. 15, 1912.)
No. 1036.

ANSWER AND CROSS-LIBEL.

(Of American-Hawaiian Steamship Company.)

To the Honorable Judges of the Above Entitled Court,
sitting in admiralty:

The answer of the American-Hawaiian Steamship Company, a corporation, claimant of the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, to the libel of the Strathalbyn Steamship Company, Ltd., owner of the steamship "Strathalbyn," alleges as follows:

I.

It admits the allegations of Paragraphs I and II of said libel.

II.

Answering Paragraph III of said libel, it admits that on the evening of January 12, 1912, a collision occurred between the steamships "Strathalbyn" and "Virginian" in Puget Sound between Robinson Point and Pully Point, and avers that the same occurred at about the hour of eight o'clock P. M.

III.

Answering Paragraph IV of said libel, it denies any knowledge or information sufficient to form a belief as to the departure of the steamship "Strathalbyn" from the port of Tacoma, or the hour thereof, or the voyage on which she was engaged, or as to whether said steamship was fully equipped and manned, or had a lookout at her forecastle head or was in charge of a competent pilot, master, officers or crew; but it denies that she was at the times mentioned in

said libel equipped with proper range and side lights or that the same were properly set or burning; that this claimant has no knowledge or information sufficient to form a belief as to the exact course, by the compass, upon which the "Strathalbyn" was proceeding, but admits that a blast was blown by some vessel ahead of the steamship "Virginian," which was answered by one blast of the steamship "Flyer," the said "Flyer" being then bound to Tacoma and about a quarter of a mile off the starboard bow of the steamship "Virginian"; and claimant further admits that shortly afterwards another blast of said vessel was given, and about a minute later another blast was likewise given, but claimant avers that the "Virginian" was unable to see the lights of any vessel from which said blasts proceeded or to make out said vessel, and admits that neither of said blasts were answered by said steamship "Virginian," and avers that they were not answered for the reason that neither the lights of the vessel nor the vessel herself from which the blasts proceeded were visible to the pilot, officers or lookout of the steamship "Virginian"; claimant admits that at all of said times the range lights and side lights of the said steamship "Virginian" were visible, and it further admits that about two minutes after said last mentioned single blast was given, four blasts were sounded as a danger signal to the "Virginian," and that the same were answered by three blasts of the whistle of the "Virginian." That claimant denies any knowledge or information as to whether the red light of the "Virginian" was visible to the steamship "Strathalbyn," or whether said steamship "Strathalbyn" at any time ported her helm or stopped or reversed her engines, or gave any other or further signals. Claimant further admits that shortly after said danger signal was given a collision occurred between the steamship "Virginian" and the steamship "Strathalbyn," but as to the nature or extent of the injuries to the said steamship "Strathalbyn," her gear, machinery, property or crew, claimant denies any knowledge or information sufficient to form a belief; claimant likewise admits that after said collision both the said steamships proceeded to the port

of Tacoma; but claimant denies each and every of the remaining allegations in said Paragraph IV contained, and avers that the facts in the premises are as herein-after set forth in its further answer and cross-libel.

IV.

Answering Paragraph V of said libel, claimant denies that the said collision occurred by reason of the fault or neglect of the steamship "Virginian," her pilot, officers or crew, and further denies any knowledge or information as to the nature or extent of the injuries or damages occasioned to said "Strathalbyn," her tackle, apparel, furniture or cargo, or as to the cost or expense of removing or replacing said cargo.

FURTHER ANSWERING AND BY WAY OF CROSS-LIBEL AND COMPLAINT, the American-Hawaiian Steamship Company, a corporation, owner of the steamship "Virginian," against the steamer "Strathalbyn," her engines, boilers, tackle, apparel and furniture, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned the above-named cross-libelant was a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with its principal place of business at Jersey City in said State, and was and is the owner of the steamship "Virginian," her engines, boilers, tackle, apparel and furniture, which said steamship is a steel twin-screw vessel of 7,914 tons gross and 5,077 tons net register, and of the length of 492', of the breadth of 58' 3" and depth of 31' 9", and that she is registered at the port of New York.

II.

That at about 6:40 P. M. on the evening of January 12, 1912, said steamship "Virginian," having aboard about 2,000 tons of cargo destined for foreign ports, left the port of Seattle and proceeded on her way to the port of Tacoma, and said steamship then and at all the times hereinafter mentioned was fully equipped and manned and supplied with good and sufficient range and side lights, properly set and brightly burn-

ing, and having a lookout stationed on her fore-castle head, and was in charge of a competent pilot, master, officers and crew; that after rounding Al-ki Point she proceeded on a course SE. by S., magnetic, until she approached Pully Point, when she hauled to the westward for the purpose of keeping well off said Point, and that she was abeam of said Point at 7:53 P. M. by the ship's time and about a half mile distant therefrom; whereupon, she straightened out her course for Point Robinson to SE $\frac{1}{4}$ S, magnetic, upon which course she proceeded until the happening of the collision herein mentioned; that when abreast of Pully Point she was overtaken and passed by the steamship "Flyer" on her way from Seattle to Tacoma, which said steamship hauled off to the right, passing on the starboard side of the steamship "Virginian" with a clearance of about 100 yards, said steamship "Flyer" giving one blast of her whistle, to which an answering blast was given by the steamship "Virginian," the steamship "Flyer" then proceeding on her way; that after said steamship "Flyer" had passed by the steamship "Virginian" and was about an eighth of a mile ahead and on the starboard bow of the "Virginian," the pilot and third officer on the bridge of the "Virginian" heard one blast of a whistle given from some vessel ahead but whose lights were not visible, which blast was immediately answered by the steamship "Flyer"; that about a minute thereafter they again heard one blast of a whistle from some point ahead and to the port side of the steamship "Flyer"; being unable to see any ship's lights or to distinguish the vessel from which said blasts proceeded, the pilot immediately ordered the engines of the steamship "Virginian" stopped, and thereupon took up his glasses and searched the waters ahead of him for the purpose of discovering from what vessel said blast proceeded; that neither the pilot nor the third officer being able to see the lights of any ship ahead and receiving no call or information from the lookout, the pilot thereupon immediately ordered the engines reversed full speed astern, at which time another blast was given from some point ahead; that a short time thereafter the pilot and other officers of

the "Virginian" being still unable to discover the lights of the vessel from which said blasts proceeded or to discover or locate the position thereof, four blasts were heard from a point ahead and were immediately answered by three blasts of the whistle of the "Virginian," signifying that her engines were going full speed astern; that a few seconds later the said steamship "Strathalbyn" loomed out of the darkness immediately in front of the "Virginian," and the two vessels forthwith came into collision, head on or nearly so, said steamship "Virginian" being struck on her starboard bow just abaft her stem, listing her to port; that at the time of said collision the engines of the steamship "Virginian" had been reversed full speed astern about two minutes or more, and she immediately after the collision began backing from the steamship "Strathalbyn"; that the night was dark, and at the time of said collision and for some little time prior thereto the sky was overcast, and rain began to fall shortly thereafter; that the said collision occurred without fault on the part of the steamship "Virginian," her officers or crew, but solely because the said steamship "Strathalbyn" did not at said time have starboard and port lights or any masthead or range lights properly placed and lighted, as required by law, so as to render said ship visible to an approaching vessel in the night time, and because the said steamship "Strathalbyn," receiving no answer to the single blast of her whistle, was advised that she could not be located by the steamship "Virginian," and negligently proceeded on her course.

III.

That at the time of the aforesaid collision the steamship "Virginian," with officers and crew of forty-eight persons, was bound on a voyage from Salina Cruz to Honolulu, calling at the ports of Seattle and Tacoma to receive and discharge cargo, and was proceeding on the evening of January 12, 1912, to the port of Tacoma for the purpose of taking on additional cargo; that at said time she was carrying about 2,000 tons of freight, consigned to the Hawaiian Islands, and that by reason of the injuries and damages to said steamship, occa-

sioned by said collision, said steamship will be compelled to incur expense in unloading and trans-shipping said freight to its destination.

IV.

That the said collision occurred without any fault on the part of the said steamship "Virginian," her pilot, officers or crew, and solely by reason of the carelessness and negligence of the steamship "Strathalbyn," her pilot, officers and crew. That said steamship "Strathalbyn" struck the steamship "Virginian" just abaft of her stem on the starboard side, injuring and damaging her as follows: Several large steel plates are ruptured and made entirely useless, also several of the steel frames or ribs of the ship have been broken in different places on both the starboard and port sides of the ship and are in such condition as to make them totally useless, also decks, breast hooks and stem are damaged down to and below the water line to such extent that it will be necessary that they be removed and renewed or repaired, the full extent and nature of the injury being such as to be impossible of exact determination until after said ship is placed in dry dock and final surveys made.

V.

That by reason of the injuries and damages to the said steamship "Virginian," her tackle and apparel, it will become necessary for her to be docked and repaired; that the full extent of the damages to said steamship and the cost of repairing the same, together with the loss of time and demurrage, can only be ascertained after the said steamship has been placed in the dry dock and repaired; but this cross-libelant avers that the damages to said steamship, her tackle, apparel, furniture and cargo, including the cost of removing and trans-shipping said cargo, and any damages to said cargo unavoidably occasioned thereby, the loss and damage by way of demurrage, and the cost of necessary repairs, will exceed the sum of One Hundred Thousand Dollars (\$100,000).

VI.

That the said steamship "Strathalbyn" is now at

the port of Tacoma, State of Washington, and within the jurisdiction of this Court.

VII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

WHEREFORE, this cross-libelant prays that process in due form of law and according to the practice of this Honorable Court may issue against the said steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture, and that she may be condemned and sold to answer for the damage suffered by this cross-libelant, and that all persons having or pretending to have any right, title or interest in said steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture, may be cited to appear and answer all and singular the matters alleged herein, and that this Honorable Court will be pleased to pronounce judgment for the damage suffered and sustained by said cross-libelant, and for such other and further relief as shall be just and equitable, and that it recover its costs and disbursements herein.

BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Claimant and Cross-Libelant,
American Hawaiian Steamship Company.

(Verified.) (Filed Jan. 19, 1912.)

No. 1036.

ANSWER OF STRATHALBYN STEAMSHIP
COMPANY, LTD., a corporation, TO
CROSS LIBEL.

To the Honorable the Judges of the Above Entitled Court, Sitting in Admiralty:

The answer of the Strathalbyn Steamship Company, Ltd., a corporation, claimant of the steamship "Strathalbyn," her engines, boilers, tackle, apparel and furniture to the cross libel of the American-Hawaiian Steamship Company, a corporation, alleges as follows:

I.

Denies any knowledge or information sufficient to form a belief as to the truth of the allegations set forth and contained in the first paragraph of the cross libel.

II.

Denies each and every allegation set forth and contained in the second paragraph of said cross libel, excepting it admits that the "Virginian" range and side lights were burning, and admits that the steamer "Flyer" passed the "Virginian" in the vicinity of Pulley Point on the starboard side of the "Virginian," and that the "Flyer" blew one blast of her whistle, which was answered by the "Virginian," and admits that the "Strathalbyn" and the "Virginian" came into collision, and admits that the said steamship "Virginian" was proceeding to the port of Tacoma at the time of the collision.

III.

Denies each and every allegation set forth and contained in the fourth paragraph of said cross libel.

IV.

Admits that at the time of the filing of the cross libel herein, the "Strathalbyn" was at the port of Tacoma, State of Washington, within the jurisdiction of this court.

V.

Denies each and every allegation set forth and contained in the seventh paragraph of the cross libel.

Further answering said cross libel, and by reason of the many inaccuracies and errors in the allegations contained therein, and as a further denial thereof, this libellant and claimant avers:

That after passing the steamer "Flyer," and while the "Virginian" and the "Strathalbyn" were approaching, and when the green and red lights of the "Virginian" were visible and her range lights in line, the "Strathalbyn" blew one passing blast of her whistle as a signal to the "Virginian" of her intention to pass port to port, but that thereafter, instead of the "Virginian" responding to said signal, the "Virginian" swung to port and closed her red light and continued to approach the "Strathalbyn," with little, if any, abate-

men in her speed. That the "Strathalbyn" then blew another single, signal blast to signify to the "Virginian" that the "Strathalbyn" intended to pass her port to port. That the "Strathalbyn" ported her helm between the first blast to the "Virginian" and the second, and brought the "Strathalbyn" into a position where she would have passed the "Virginian" had the "Virginian" responded by porting her helm, as she was in duty bound to do, but, instead thereof, the "Virginian" continued to swing to port. Thereupon the "Strathalbyn" blew another single, signal blast to pass the "Virginian" to port, but the "Virginian" failed and neglected to respond thereto, but continued to swing to port, and it then becoming evident that the "Virginian" was failing and neglecting to conform to the rules of the road, after the "Strathalbyn" had again ported her helm, and that there was danger of a collision, the "Strathalbyn" blew the danger signal to the "Virginian." That the "Strathalbyn" was making about six (6) knots an hour when under way just before collision, and that her engines were stopped about the time of blowing the second whistle to the "Virginian," and the "Strathalbyn" continued, solely by reason of her momentum, for about three minutes. That, about the time the "Strathalbyn" gave the danger signal to the "Virginian," her engines were reversed full speed astern, and so remained reversed for about one minute prior to the collision, and were running full speed astern at the time of the collision, and the "Strathalbyn" was practically stationary at the time of the collision. That, at all times after seeing the red and green lights on the "Virginian" from the "Strathalbyn," the "Strathalbyn" continued to show to the "Virginian" her red light, which was burning brightly, as were also her mast head and other signal lights, but the "Virginian" neglected to heed said lights and signals and neglected to stop and reverse in time to avoid the collision, but, on the contrary, ran into the "Strathalbyn" and struck her on the port bow and cut through the same and tore away the port bow forward of the hawse pipe and also the starboard bow for some four frames aft of the collision bulkhead and opened

a hole in the bow of the "Strathalbyn" far below her water line, and greatly damaged her, as is more particularly alleged in the libel herein, and that the said collision was brought about solely by the fault, carelessness and negligence of the "Virginian" in the particulars aforesaid, and without fault, carelessness or negligence on the part of the "Strathalbyn" or of her pilot, officers or crew. That, at all the times since the "Strathalbyn" left Tacoma up to the time of the collision, she was properly equipped and manned with a competent and attentive lookout on her forecastle head and pilot, officers and crew at their respective places.

WHEREFORE, the libellant and cross-claimant herein prays that the libel of the claimant and cross-libellant may be dismissed and that it have and recover nothing herein against this libellant and cross-claimant, and that this libellant and cross-claimant do have and recover its costs and disbursements herein, and that This Honorable Court may be pleased to award it full compensation for the damages it has sustained, according to the prayer of the libel herein, and prays that it may have such other and further relief as in justice and equity it may be entitled to in the premises.

HUFFER, HAYDEN & HAMILTON,
Proctors for libellant and cross-
claimant, Strathalbyn S. S. Co.,
Ltd.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Feb. 16, 1912.)

In the District Court of the United States, for the Western District of Washington, Southern Division.

No. 1052—IN ADMIRALTY.

LIBEL IN REM.

(Of Strathalbyn Steamship Company, Ltd., as Bailee of Cargo, etc.)

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo, Libellant,

VS.

THE STEAMSHIP "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent.
To the Honorable CORNELIUS H. HANFORD and Honorable GEORGE DONWORTH, Judges of the above entitled court:

The libel and complaint of the Strathalbyn Steamship Company, Ltd., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo against the Steamship "Virginian", her tackle, apparel, furniture, boilers and engines, and against all persons intervening for their interest in the same in a cause of collision, civil and maritime, alleges as follows:

I.

That at all the times herein mentioned, the Strathalbyn Steamship Company, Ltd., was, and is, a corporation of the Kingdom of Great Britain and Ireland, with its principal place of business at Glasgow, Scotland, and was, and is, the owner of the steamship "Strathalbyn", her engines, boilers, tackle and furniture, and that, at all the times hereinafter mentioned, it had in its possession and under its control 3,563,011 feet of lumber as cargo laden aboard said steamship "Strathalbyn" and entrusted to it for transportation to Sidney, New South Wales, and that, as such carrier, the said cargo is now in the possession and control of said Strathalbyn Company, Ltd., and that a large part of said cargo has been damaged by reason of the facts hereinafter stated, and that the said Strathalbyn Steamship Company, Ltd., as bailee of said cargo is authorized to bring this suit as such bailee and for the uses and benefit of the owner and underwriters upon the same.

II.

That the steamship "Virginian", her tackle, apparel, furniture, boilers and engines herein proceeded against, is now within the Western District of Washington and is within the jurisdiction of this court.

III.

That, on Friday night, the 12th of January, 1912, at about the hour of forty-five minutes after seven

o'clock, a collision occurred between the steamships "Strathalbyn" and "Virginian", on Puget Sound, between Robinson Point and Pulley Point.

IV.

That on said 12th day of January, at about the hour of 6:15 o'clock P. M., the "Strathalbyn" left the port of Tacoma, Washington, and started on her voyage for Sidney, New South Wales, with said cargo of lumber thereon destined to said point, the said steamship then being fully equipped, manned and supplied and sea-worthy for the contemplated voyage, with her mast head light and side lights properly set and brightly burning, having a lookout stationed on her forecandle head and in the charge of a competent pilot, master, officers and crew, and having so started on her voyage continued thereon in safety until the light of Robinson Point was abeam, when her course was changed to N. W. $\frac{1}{2}$ N. magnetic. When the "Strathalbyn" was rounding Robinson Point, the light on Pulley Point was visible and also the lights of two vessels that appeared to be to the north of Pulley Point and approaching. That, when the "Strathalbyn" was about half way between Robinson and Pulley Points, she blew one blast of her whistle, and receiving a similar passing blast, passed port to port the steamer "Flyer". That as soon as the steamer "Flyer" had passed the "Strathalbyn", the "Strathalbyn" blew one blast of her whistle as a signal to the "Virginian", then approaching her, to pass her on the port side, both the red and the green side lights of the "Virginian" being at that time visible. That the "Virginian" failed and neglected to answer the signal of the "Strathalbyn", and, after proceeding for or in the neighborhood of a minute, the "Strathalbyn" again blew one blast of her whistle as a passing signal to the "Virginian", and the "Virginian" again failed and neglected to answer the same, the red light of the "Virginian" having theretofore closed, and after giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the helm of the "Strathalbyn", her engines were stopped. About a minute thereafter, the "Strathalbyn" again sounded one blast of her

whistle as a signal for the "Virginian" to pass her port to port, and the "Virginian" again failed and neglected to answer said signal, but negligently continued to show her green light, whereupon the "Strathalbyn" backed full speed astern and sounded several blasts in quick succession as a danger signal to the "Virginian", and, for the first time, the "Virginian" sounded three blasts of her whistle in answer thereto. That, after a collision became imminent, the "Strathalbyn" did everything in her power to avoid the same, which such efforts were unavailing, and the "Virginian" struck the "Strathalbyn" on the port bow in the vicinity of her hawse pipe and stove a hole in her and continued on through the "Strathalbyn's" bow and tore a hole in her starboard bow and crumpled her plates and broke her frames from her stem back to and including some four or five frames abaft the collision bulkhead on the starboard side, and thereby greatly bent, broke and damaged the whole forward portion of said "Strathalbyn" and thereby caused large quantities of water to flow into and flood the holds of the said steamer "Strathalbyn" and wet and greatly damage the cargo stowed therein. That, by reason of the aforesaid damage to the "Strathalbyn" and to said cargo, it has been necessary to remove the same from the hold of the "Strathalbyn" and large expense has been, and will be, incurred in removing said cargo and restoring the same, and that, by such wetting and handling of said cargo, the same has been, and will be, greatly damaged, and that by reason of the delay in the transportation of said cargo it will be greatly damaged and will be of far less value at the point of destination than if the same had been transported promptly and had not been injured as aforesaid by reason of said collision.

V.

That the said collision was caused by the careless and negligent acts and omissions of the "Virginian", her officers and crew, as aforesaid, and by reason of their failure to respond in answer to the aforesaid signals of the "Strathalbyn", and by reason of their failure to observe the "Strathalbyn" and her lights and to avoid the said collision, and by reason of her wrong-

fully and carelessly changing her course after receiving the aforesaid passing signal from the "Strathalbyn", and by reason of her wrongfully and carelessly running into and bringing about the aforesaid collision, the said cargo has been damaged, and the libellants have, and will, suffer loss and damages in a sum which, at this time, libellant is unable to more definitely state than to allege that said loss and damage will amount to the sum of \$100,000.00.

VI.

That the "Virginian" is a large, steam vessel, with a gross tonnage of, approximately, 7,914 tons, and a net tonnage of, approximately, 5,077 tons. She was partially loaded, but was high in the water compared with the fully loaded "Strathalbyn".

VII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of this court.

WHEREFORE, libellant prays that process in due form of law according to the practice of This Honorable Court may be issued against the said steamship "Virginian", her tackle, apparel, furniture, boilers and engines, and that she may be condemned and sold to answer for the damage suffered by this libellant, and that all persons having, or pretending to have, any right, title or interest in said steamship "Virginian", her tackle, apparel, furniture, boilers and engines, may be cited to appear and answer all and singular the matters alleged herein, and that This Honorable Court will be pleased to pronounce judgment for the damage suffered and sustained by libellant, and for such other and further relief as shall be just and equitable, and that the libellant may have and recover its costs and disbursements herein.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant. P. O. Ad-
dress: 410 Fidelity Bldg., Tacoma,
Washington.

JAMES M. ASHTON, Advocate.
(Verified.) (Filed Feb. 8, 1912.)

No. 1052.
MOTION.

(Of American Hawaiian Steamship Co.)

To the Honorable Judges of the Above Entitled Court:

The American-Hawaiian Steamship Company, a corporation, claimant of the Steamship "Virginian", her tackle, apparel, etc., respectfully shows the Court:

I.

That heretofore the above named libelant Strathalbyn Steamship Company, Ltd., filed its libel, No. 1036, in this Court against the Steamship "Virginian", her tackle, apparel, furniture, boilers and engines, seeking to recover against said Steamship "Virginian", her tackle, etc., damages alleged to have been suffered to said Steamship "Strathalbyn" and to the equipment, gear and property aboard of her and for the loss of the use of said vessel and the cost and expense of removing and replacing her cargo and repairing the damage done thereto and to said vessel, her tackle, apparel, furniture and cargo, in the alleged amount of \$160,000, and thereupon caused process to issue and said steamship "Virginian" to be seized by the marshal of this Court; that thereupon this claimant, American-Hawaiian Steamship Company, a corporation, appeared generally in said cause, claiming said steamship "Virginian", and pursuant to stipulation with proctors for libelant obtained the release of said steamship "Virginian" by executing and filing in said cause its stipulation and bond, with good and sufficient surety, in the penal sum of \$175,000, wherein it undertook and agreed to abide by and perform the order and judgment of this Court in said cause, reference being hereby made to the libel and proceedings in said cause No. 1036 of record and on file in this Court; that the libel of said libelant Strathalbyn Steamship Company, Ltd., in said cause No. 1036 sought to recover damages as aforesaid upon a cause of collision, alleging that the said collision occurred between the steamship "Strathalbyn", owned by the said libelant, and the steamship "Virginian", owned by this claimant, on the evening of January 12, 1912, between Pully Point and Robin-

son Point in Puget Sound, by reason of the alleged fault of the said steamship "Virginian".

II.

That thereafter the said libelant Strathalbyn Steamship Company, Ltd., a corporation, as bailee of cargo on board said steamship "Strathalbyn" at the time of said collision, filed its libel *in rem* herein, being cause in admiralty No. 1052 in this Court, wherein it again sought to recover, as bailee, damages to the cargo on board the said steamship "Strathalbyn" at the time of said collision, and caused process to issue and the said steamship "Virginian" to be seized by the marshal of this Court; and that this claimant, in order to release said steamship "Virginian" from the custody of said marshal, was compelled to furnish and did execute and file with the clerk of this Court its stipulation and bond in the penal sum of \$110,000, conditioned to abide by and perform the judgment and decree of this Court in said cause.

III.

That both of said libels are based upon the same collision and upon the same alleged grounds of negligence and fault on the part of the said steamship "Virginian"; and that the recovery sought by the said libelant in said last named cause No. 1052 may be fully litigated and determined in said first named cause No. 1036 by the said Strathalbyn Steamship Company, Ltd., as bailee, or by the proper intervention of the owners of said cargo, and that no occasion or necessity exists for the prosecution of separate or independent libel or proceeding therefor or for requiring this claimant to furnish bond or make separate defense thereto.

WHEREFORE, this claimant, American-Hawaiian Steamship Company, a corporation, moves the Court to dismiss said libel No. 1052 and cancel the bond of claimant therein, and tax the costs thereof to the said libelant Strathalbyn Steamship Company, Ltd., or, if said motion be denied, that the said causes Nos. 1036 and 1052 be consolidated by the order of this Court, to the end that they may be heard and determined as one cause. This motion is based upon the records and

files in this cause No. 1052 and in the said cause in admiralty No. 1036.

BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Proctors for Claimant.

(Filed Feb. 26, 1912.)

No. 1036.

No. 1052.

MEMORANDUM DECISION ON CLAIMANT'S
MOTION TO DISMISS CAUSE NO. 1052 OR
TO CONSOLIDATE CAUSES NO. 1036
AND NO. 1052.

HUFFER, HAYDEN & HAMILTON and J. M. ASHTON,
For Libelants.

BOGLE, GRAVES, MERRITT & BOGLE, and HUGHES, Mc-
MICKEN, DOVELL & RAMSEY,
For Claimant.

DONWORTH, District Judge.

The American-Hawaiian Steamship Company, claimant in these two causes, has moved that the libel in cause No. 1052 be dismissed with costs to claimant, and that the bond given by claimant in that cause for the release of the steamship "Virginian" be cancelled, or, in the alternative, that the two causes, No. 1036 and No. 1052, be consolidated to the end that they may be heard and determined as one cause.

The first branch of the motion is based on the ground that the second libel, cause No. 1052, is merely an amplification of a part of the demand asserted in the first libel, cause No. 1036, it being urged that the damage to the cargo of the "Strathalbyn", which is the sole demand asserted in the second libel, is really embraced in the first libel along with the demand for damage to the ship. I do not deem it necessary to decide at this time the question thus raised. Whatever foundation there may be for the contention, it can better be determined when the controversy is heard on the merits. The Court can then make any order that the justice of the case may require. A motion to dismiss *in limine* should not be granted except in a clear case involving an abuse of the process of the Court. I am not prepared to rule that the first libel filed by

libelant apparently for its own sole benefit would bar a second suit in which it sues as bailee for the owners of the cargo. I shall, therefore, not undertake to express any opinion as to the true interpretation of the libels in this respect or the propriety of the second suit. The motion to dismiss is denied.

The two libels arise out of the same collision and the issues in each are such that substantially the same evidence will determine the two causes. This is a clear case for the exercise of the discretionary power of the Court for the consolidation of causes of a like nature or relative to the same question. *R. S. Section 921. 4 Fed. Stat. Anno. 587. The North Star*, 106 U. S. 27. *The Nahor*, 9 Fed. 213. The two causes will therefore be consolidated and will hereafter proceed as one cause.

At the argument of this motion reference was made to the question of the effect of a consolidation of the causes upon such steps as claimant may see fit to take under Admiralty Rules 53 and 59. This question is not now before me. The causes will be consolidated and any motion that claimant may make under either of these rules will be determined in due course.

Let a formal order be drawn and submitted in accordance with this ruling.

GEORGE DONWORTH, Judge.

(Filed March 7, 1912.)

In the District Court of the United States, for the Western District of Washington, Southern Division.

IN ADMIRALTY.

No. 1036.

ORDER OF CONSOLIDATION.

(Of Causes No. 1036 and 1052.)

No. 1052.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation,
Libelant,

vs.

THE STEAMSHIP "VIRGINIAN", her tackle, apparel,
furniture, boilers and engines,
Respondent,

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant.

STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, as bailee of a cargo of lumber consisting of 3,563,011 feet and for the use and benefit of the owner and insurers of said cargo, Libelant,

vs.

THE STEAMSHIP "VIRGINIAN", her tackle, apparel, furniture, boilers and engines, Respondent,

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant.

Upon motion of American-Hawaiian Steamship Company, as claimant in each of the above entitled causes, it is hereby ORDERED that said cause No. 1052 be consolidated with said cause No. 1036, and that all further proceedings therein shall be had in said causes so hereby consolidated.

Done in open Court this 18th day of March, 1912.

GEORGE DONWORTH, Judge.

(Filed March 18, 1912.)

No. 1052—PETITION.

(Of American-Hawaiian Steamship Co.)

To the Honorable Judges of the Above Entitled Court:

The petition of the American-Hawaiian Steamship Company, a corporation, the above named claimant, respectfully shows:

I.

That it is a corporation organized and existing under the laws of the State of New Jersey and is the owner of the steamship "Virginian".

II.

That on or about the day of January, 1912, the above named libelant filed its libel *in rem* in this Court against the steamship "Virginian", her tackle, apparel, etc., as respondent, being cause No. 1036 in this Court, wherein it caused process to issue and the said steamship "Virginian" to be seized by the marshal of this Court, and thereupon your petitioner herein, as claimant and owner of said steamship "Vir-

ginian", entered its appearance and executed and filed in said cause its stipulation and bond for the release of said steamship in the penal sum of \$175,000, conditioned to abide by and perform the judgment and decree of this Court in said cause; that in and by said libel the said libelant sought to recover against steamship damages to the steamship "Strathalbyn" and to its equipment, gear, and property aboard of her, and for repairing damage done to said vessel and her cargo, in the sum of \$160,000, for the alleged fault of the said steamship "Virginian" in a certain collision occurring between said steamships on the evening of January 12, 1912, between Pully Point and Robinson Point in Puget Sound within this District.

III.

That thereafter on or about the 8th day of February, 1912, the said libelant, Strathalbyn Steamship Company, Ltd., as bailee of cargo aboard said steamship "Strathalbyn" at the time of said collision, filed its further libel in this Court against the steamship "Virginian", her tackle, apparel, etc., being cause No. 1052 of this Court, wherein it sought to recover, as bailee of the owners, for alleged damages to said cargo, in the sum of \$100,000, and caused process to issue and said steamship "Virginian" to be seized thereunder; and that your petitioner appeared therein as the owner of said steamship "Virginian" and executed and filed in said cause its bond for the release of said steamship in the penal sum of \$110,000, conditioned that it would abide by and perform the decree of this Court in said cause.

IV.

That the said last mentioned libel is a suit for damages alleged to have been suffered by the owners of cargo aboard the steamship "Strathalbyn" by collision between the said steamship "Strathalbyn" and the said steamship "Virginian" in the waters of Puget Sound between Pully Point and Robinson Point on the evening of January 12, 1912, and your petitioner avers that the facts in relation thereto are as follows, to-wit: That at about 6:40 P. M. on the evening of January 12, 1912, said steamship "Virginian",

having aboard about 2,000 tons of cargo destined for foreign ports, left the port of Seattle and proceeded on her way to the port of Tacoma, and said steamship then and at all the times hereinafter mentioned was fully equipped and manned and supplied with good and sufficient range and side lights, properly set and brightly burning, and having a lookout stationed on her forecastle head, and was in charge of a competent pilot, master, officers and crew; that after rounding Al-ki Point she proceeded on a course SE by S, magnetic, until she approached Pully Point, when she hauled to the westward for the purpose of keeping well off said Point, and that she was abeam of said Point at 7:53 P. M. by the ship's time and about a half mile distant therefrom; whereupon, she straightened out her course for Point Robinson to SE $\frac{1}{4}$ S magnetic, upon which course she proceeded until the happening of the collision herein mentioned; that when abreast of Pully Point she was overtaken and passed by the steamship "Flyer" on her way from Seattle to Tacoma, which said steamship hauled off to the right, passing on the starboard side of the steamship "Virginian" with a clearance of about 100 yards, said steamship "Flyer" giving one blast of her whistle, to which an answering blast was given by the steamship "Virginian", the steamship "Flyer" then proceeding on her way; that after said steamship "Flyer" had passed by the steamship "Virginian" and was about an eighth of a mile ahead and on the starboard bow of the "Virginian", the pilot and third officer on the bridge of the "Virginian" heard one blast of a whistle given from some vessel ahead but whose lights were not visible, which blast was immediately answered by the steamship "Flyer"; that about a minute thereafter they again heard one blast of a whistle from some point ahead and to the port side of the steamship "Flyer"; that being unable to see any ship's lights or to distinguish the vessel from which said blasts proceeded, the pilot immediately ordered the engines of the steamship "Virginian" stopped, and thereupon took up his glasses and searched the waters ahead of him for the purpose of discovering from

what vessel said blast proceeded; that neither the pilot nor the third officer being able to see the lights of any ship ahead and receiving no call or information from the lookout, the pilot thereupon immediately ordered the engines reversed full speed astern, at which time another blast was given from some point ahead; that a short time thereafter the pilot and other officers of the "Virginian" being still unable to discover the light of the vessel from which said blasts proceeded or to discover or locate the position thereof, four blasts were heard from a point ahead and were immediately answered by three blasts of the whistle of the "Virginian", signifying that her engines were going full speed astern; that a few seconds later the said steamship "Strathalbyn" loomed out of the darkness immediately in front of the "Virginian", and the two vessels forthwith came into collision, head on or nearly so, said steamship "Virginian" being struck on her starboard bow just abaft her stem, listing her to port; that at the time of said collision the engines of the steamship "Virginian" had been reversed full speed astern about two minutes or more, and she immediately after the collision began backing from the steamship "Strathalbyn"; that the night was dark, and at the time of said collision and for some little time prior thereto the sky was overcast, and rain began to fall shortly thereafter; that the said collision occurred without fault on the part of the steamship "Virginian", her officers or crew, but solely because the said steamship "Strathalbyn" did not at said time have starboard and port lights or any masthead or range lights properly placed and lighted, as required by law, so as to render said ship visible to an approaching vessel in the night time, and because the said steamship "Strathalbyn", receiving no answer to the single blast of her whistle, was advised that she could not be located by the steamship "Virginian", and negligently proceeded on her course.

V.

That the damages, if any, occasioned by said collision to said cargo aboard the said steamship "Strathalbyn" were caused through the sole negligence and

fault of the said steamship "Strathalbyn", her officers and crew, in failing to maintain upon said ship signal lights, properly placed, lighted and brightly burning, as required by law, and in not properly navigating said steamship after failing to receive a response to her passing signal from the steamship "Virginian"; for which damages, if any, said steamship "Strathalbyn" is directly liable to the owners of said cargo, and for which damages, if any, said steamship "Strathalbyn" is likewise directly liable to this petitioner if this petitioner shall be found liable to the owners of said cargo.

VI.

That after the said collision the said steamship "Strathalbyn" returned to the port of Tacoma, where she discharged a portion of her cargo of lumber, but that subsequently and before the filing of the libel of the Strathalbyn Steamship Company, Ltd., as bailee for the owners of said cargo in said cause No. 1052, the said steamship proceeded out of the jurisdiction of this Court to the port of Victoria in the Province of British Columbia, for the alleged purpose of repairing her damages, but petitioner is informed and believes that it is the intention of the said libelant to cause said steamship "Strathalbyn" to be returned to the port of Tacoma, within the jurisdiction of this Court, upon the completion of her repairs, for the purpose of taking aboard the cargo so unladen therefrom before proceeding upon the voyage upon which she was bound at the time of said collision.

VII.

That all and singular the premises are true and within the jurisdiction of this Court.

WHEREFORE, your petitioner prays that process may issue according to the practice of this Court and the rules of the Supreme Court in admiralty against the steamship "Strathalbyn", her engines and boilers, to the end that the said steamship may be proceeded against in this suit for the damages alleged to have been sustained by the owners of the cargo on said steamship at the time of said collision as if said steamship had been originally proceeded against herein.

And your petitioner further prays that in the

event the said libelant should refuse to bring said steamship within the jurisdiction of this Court and should thereby seek to evade its process herein, that an order be entered herein requiring said Strathalbyn Steamship Company, Ltd., to give security in the usual amount and form, to respond in damages for whatever sum may be adjudged against it on account of loss or injury to the owners of said cargo, and in case of the failure or refusal of said Strathalbyn Steamship Company, Ltd., so to do that all proceedings upon the original libel of said Strathalbyn Steamship Company, Ltd., against the steamship "Virginian" in said cause No. 1036 (but not upon the cross-libel of petitioner in said cause) be stayed until such security be given herein; and your petitioner further prays that all persons claiming any interest in said steamship be cited to appear and answer the libel filed herein on behalf of said cargo owners and this petition, and that said steamship be condemned and sold to satisfy the claim of said cargo owners for damages, if any, with interest and costs, and also the costs of this petitioner herein, and that this petitioner may have such other and further relief as may to the Court seem meet and proper.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY,
Petitioner.

By BOGLE, GRAVES, MERRITT & BOGLE,
HUGHES, McMICKEN, DOVELL & RAMSEY,
Its Proctors.

(Filed March 13, 1912.)

No. 1036.

STIPULATION AS TO ANSWER OF AMERICAN-HAWAIIAN STEAMSHIP COMPANY
IN CAUSE NO. 1052.

No. 1052.

IT IS STIPULATED AND AGREED that the allegation of the petition filed in Cause No. 1052 by the American-Hawaiian Steamship Company, a corporation, claimant of the steamship "Virginian", may be taken and considered as the answer of said claimant to the libel filed in said cause by Strathalbyn Steamship Company, Ltd., a corporation, as bailee, etc.

Dated this 26th day of November, A. D. 1915.

BALLINGER, BATTLE, HURLBURT &
SHORTS,

MCCUTCHEON, ONEY & WILLARD AND
IRA A. CAMPBELL,

Proctors for Strathalbyn Steam-
ship Company, Ltd., a corpora-
tion, as bailee, etc., Libelant in
Cause No. 1052.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for American-Hawaiian
Steamship Company, a corpora-
tion, Claimant in Cause No. 1052.

HUFFER & HAYDEN,
Proctors for Strathalbyn Steam-
ship Company, Ltd., a corpora-
tion.

(Filed December 4, 1915.)

No. 1036.

No. 1052.

CONSOLIDATED CASES.

Answer of Strathalbyn Steamship Co., Ltd., to Peti-
tion of American-Hawaiian Steamship Co., Which
Petition Cites the Steamship "Strathalbyn"
Into the Cargo Case.

To the Honorable, the Judges of the Above Entitled
Court:

The answer of the Strathalbyn Steamship Com-
pany, Ltd., claimant of the steamer "Strathalbyn", to
the petition of the American-Hawaiian Steamship
Company, a corporation, claimant of the steamship
"Virginian", in the suit of the Strathalbyn Steamship
Company, Ltd., as bailee of a cargo, etc., versus the
steamship "Virginian", respectfully shows and alleges:

I.

Admits that on the — day of January, 1912,
the Strathalbyn Steamship Company, Ltd., filed its
libel *in rem* in this Court against the steamship "Vir-
ginian", her tackle, apparel, etc., as respondent, being
cause No. 1036, and caused process to issue and said
steamship to be seized and that thereafter the Ameri-

can-Hawaiian Steamship Company, as claimant and owner of said steamship "Virginian", entered its appearance and executed and filed in said cause the stipulation and bond for the release of said steamship in the penal sum of \$175,000.00, condition to abide by and perform the judgment and decree of said Court in said cause; and admits that in and by said libel, the said libelant sought to recover against said steamship "Virginian" damages suffered by the steamship "Strathalbyn", its equipment and its property aboard of her, and for repairing damage done to said vessel in a certain collision occurring between the steamships "Virginian" and "Strathalbyn" on the twelfth of January, 1912, between Pully Point and Robinson's Point in Puget Sound, within this District, and denies each and every other allegation in said paragraph.

II.

Admits the allegation set forth and contained in the third paragraph of said petition.

III.

Admits that the libel mentioned in paragraph Three of said petition is a suit for damages alleged to have been suffered by the owners of cargo aboard the steamship "Strathalbyn" by collision between the said steamship "Strathalbyn" and the said steamship "Virginian" in the waters of Puget Sound, between Pully Point and Robinson's Point on the evening of January 12th, 1912, and denies each and every other allegation set forth and contained in the fourth paragraph of said petition, and requires the said petitioner to make proof of said allegations except those which are hereinafter expressly admitted; admits that the said steamship "Virginian", at the time of the accident was equipped with good and sufficient range and side lights and that said lights were burning so as to be visible to those on board the "Strathalbyn"; that by reason of the manifold inaccuracies in the allegations set forth and contained in said fourth paragraph, and by way of denial thereof, this libelant alleges the truth to be as follows:

That on said twelfth day of January, 1912, the said steamship "Strathalbyn" was fully equipped, manned and supplied, with masthead and side lights

properly set and brightly burning, having a lookout stationed on her forecastle head, and in charge of a competent pilot, master, officers and crew, and was proceeding to sea from the port of Tacoma, and in the course of such voyage passed Robinsons Point, where she changed her course to northwest, a half north magnetic, and when rounding Robinson's Point a light on Pully Point was visible and also the lights of two vessels which appeared to be to the north of Pully Point and approaching. When the "Strathalbyn" was about half way between Robinson's and Pully Points she blew one blast of her whistle, receiving a similar answering blast from and passed port to port of the steamer "Flyer". That, as soon as the steamer "Flyer" had past the "Strathalbyn", the "Strathalbyn" blew one blast of her whistle as a signal to the "Virginian" to pass her on the port side, both the red and the green lights of the "Virginian" being at that time visible and the vessels approaching each other about head on, or nearly so. That the "Virginian" failed and neglected to answer the signal of the "Strathalbyn", and after proceeding in the neighborhood of a minute, the "Strathalbyn" again blew one blast of her whistle as a passing signal to the "Virginian" and the "Virginian" again failed and neglected to answer the same, the red light on the "Virginian" having theretofore been closing. After giving such second passing whistle to the "Virginian" and receiving no answer, and after having ported the helm of the "Strathalbyn", her engines were stopped; that about a minute thereafter the "Strathalbyn" again sounded one blast of her whistle as a signal for the "Virginian" to pass her port to port, and the "Virginian" again failed and neglected to answer said signal, her green light then being the only one visible, and the "Strathalbyn" then backed full speed astern and sounded several blasts in quick succession as a danger signal to the "Virginian", and for the first time the "Virginian" sounded three blasts upon her whistle in answer thereto. That after a collision became imminent, the "Strathalbyn" did everything in her power to avoid the same, but such efforts were unavailing and the "Virginian" struck

the "Strathalbyn" on the port bow in the vicinity of the haus-pipe, stove a hole in her and continued on through the "Strathalbyn's" bow, tore a hole in her starboard bow, crumpled her plates, broke and bent her frames and beams from her stem back, to and including several frames abaft the collision bulkhead, and thereby generally bent, broke and damaged the whole forward portion of the "Strathalbyn", including her windlass, forecastle and other parts of the forward part of said vessel and caused the loss of and damage to a large quantity of cargo, machinery and property, as well as injuring several of her crew and causing the death of one of them. That after said collision, the "Strathalbyn" put back to Tacoma.

That at all the times mentioned herein, prior to said collision and at the time of said collision, the masthead light and side lights of said "Strathalbyn" were properly set and brightly burning, a lookout was stationed and attending to his business on her fore-castle head, she was in charge of a competent pilot, master and crew, who were at their respective posts and properly and attentively attending to their several duties, and the "Strathalbyn" was in every manner well manned and fitted for the voyage, and that the collision occurred without any fault on her part, but solely by reason of the fault, carelessness and neglect of the "Virginian" in failing to discover the said steamship "Strathalbyn" and to observe and recognize her lights, and in maintaining insufficient lookout, in negligently navigating said vessel and in failing to keep away from the "Strathalbyn."

IV.

Denies each and every allegation set forth and contained in the fifth paragraph of said complaint.

V.

Denies each and every allegation set forth and contained in the sixth paragraph of said complaint, except it admits that after the collision aforesaid the "Strathalbyn" returned to the port of Tacoma, where she discharged a portion of her cargo of lumber, and that subsequently, and before the filing of the libel on the Strathalbyn Steamship Company, Ltd., as bailee

for the owners of said cargo in said cause No. 1052, the "Strathalbyn" proceeded to Victoria for the purpose of repairing her damage, and thereafter returned to the port of Tacoma to take on board the portion of the cargo of lumber discharged at said last mentioned port after the collision.

VI.

Denies each and every allegation set forth and contained in the seventh paragraph of said libel, except that this Court has jurisdiction.

WHEREFORE, this libelant prays that the petition aforesaid of the American-Hawaiian Steamship Company be dismissed and that this answering claimant herein be discharged and his bondsmen released and exonerated, and that it have and recover its costs and disbursements herein against the American-Hawaiian Steamship Company and its bondsmen, and for such other and further relief as is just.

STRATHALBYN STEAMSHIP COMPANY, LTD.,

A Corporation, Claimant,

By W. H. HAYDEN,

One of Its Proctors.

HUFFER & HAYDEN,

Proctors for Strathalbyn Steamship
Company, Ltd.

(Filed March 20, 1914.)

Nos. 1036 and 1052.

ANSWER OF STRATHALBYN STEAMSHIP
COMPANY, LTD., TO LIBEL OF STRATH-
ALBYN STEAMSHIP COMPANY, LTD.,
AS BAILEE OF THE CARGO.

To the Honorable, the Judge of the Above Entitled
Court:

The answer of the Strathalbyn Steamship Company, Ltd., a corporation, claimant of the steamship "Strathalbyn", seized pursuant to the petition of the American-Hawaiian Steamship Company, a corporation, filed herein, to the libel of the Strathalbyn Steamship Company, Ltd., a corporation, as bailee of the cargo of lumber consisting of 3,563,011 feet, and for the use and benefit of the owner and insurers of said cargo and freight thereon, alleges:

I.

Admits the first paragraph of said libel and alleges that the said Strathalbyn Steamship Company on the ninth day of December, 1911, made and entered into a contract of charter-party with the American Trading Company (Pacific Coast), of San Francisco, for the carriage of the cargo on board the said steamship "Strathalbyn" on the twelfth day of January, 1912, and at the time of said collision, and a copy of said charter-party is attached hereto, marked "Exhibit A", and the terms, conditions and provisions thereof are hereby referred to and hereby made a part of this paragraph as though fully set forth herein.

II.

That said charter-party, among other things, provides: "That the charterers shall provide and pay for * * * pilotages * * * when incurred, also all charges appertaining to the cargoes they may put on board." Also "That in the event of loss of time from deficiency of men or stores, breakdown of machinery, collision, docking, stranding, or other accident or damage preventing the working of the vessel for more than twenty-four consecutive hours, the time lost shall be allowed to the charterers; including first 24 hours, and if such detention shall exceed thirty days, charterers to have the option of cancelling this charter." Also "The act of God, perils of the sea, fire barratry of the master and crew, enemies, pirates and thieves, arrests and restraints of princes, rulers and people, collisions, stranding, and other accidents of navigation excepted, even when occasioned by negligence, default or error in judgment of the pilot, master, mariners, or other servants of the shipowners."

III.

That the said Steamship "Strathalbyn" was fully equipped and was burning a masthead light and port and starboard side lights, and that the said Strathalbyn Steamship Company, Ltd., exercised due diligence to make the said vessel in all respects seaworthy and properly manned, equipped and supplied. That the said Steamship "Strathalbyn" was being navigated and managed by a pilot selected and paid by the charterer,

as in said charter-party provided, but if there was any fault on the part of the Steamship "Strathalbyn" in the navigation and management of said vessel at and about the time of the collision with said steamship "Virginian", neither the said Steamship "Strathalbyn" nor the Strathalbyn Steamship Company, Ltd., is liable for any damage or loss resulting from any fault or error in the navigation or management of said vessel.

IV.

Admits the allegations set forth and contained in the second, third and fourth paragraphs of said libel, except that it alleges by way of denial that the damage to said cargo and loss set forth in said libel turned out to be much less than anticipated when the said libel was filed, and therefore requires the libelant to make proof of his loss and damage as he may see fit, if the same is pertinent so far as this answering claimant is concerned.

V.

Admits the allegations set forth and contained in the fifth paragraph of said libel, except it denies that the loss suffered by said libelant amounted to the sum of \$100,000.00, and requires the libelant to make proof of his actual damage, if the same is pertinent so far as this answering claimant is concerned.

VI.

Admits the allegations set forth and contained in the seventh paragraph of said libel.

WHEREFORE, this answering libelant prays that it may be dismissed and discharged from this action, and have and recover its costs and disbursements herein, and for such other and further relief as may be just and equitable.

STRATHALBYN STEAMSHIP COMPANY, LTD.,

A Corporation, Claimant.

By W. H. HAYDEN,

One of Its Proctors.

HUFFER & HAYDEN,

Proctors for Strathalbyn Steamship

Company, Ltd.

(Verified.)

EXHIBIT "A".
CHARTER-PARTY.

David Bruce & Co.,
Ship & Insurance Brokers, London, Dec. 9, 1911.
London.

IT IS THIS DAY MUTUALLY AGREED between The Strathalbyn Steamship Co., Limited, agents for Owners of the Steamship or Vessel called the "Strathalbyn", of 433 Tons gross Register, and 2804 Tons net Register, classed Highest Class British Corporation and guaranteed to carry 7200 Tons dead weight of cargo and fuel inclusive, on Lloyd's summer freeboard, due at San Francisco 11th instant to discharge, and American Trading Company (Pacific Coast), San Francisco, Merchants and Charterers.

That the former party agree to let, and the latter agree to hire, the said Steamship "Strathalbyn" for the term of one trip as below. The hire to commence from the day on which she is delivered or placed at the disposal of the Charterers (but not before the 20th December, 1911, if required), at San Francisco in such dock or such safe Wharf or place (where she may always safely lie afloat), as Charterers may direct, she being then ready with clear holds, tight, staunch, strong, and having been newly painted on July 3rd, 1911, and every way fitted for the service (and with full complement of officers, seamen, engineers and firemen for a vessel of her tonnage); to be employed in such lawful trades as Charterers or their Agents shall direct at and from San Francisco to North Pacific ports (Alaska excluded) and thence to port or ports in Australia and until redelivered to owners at a port between Newcastle, N. S. W., and Port Pirie (both included), port of redelivery to be named on delivery of steamer, on the following conditions:

That the Owners shall provide and pay for all Provisions and Wages of the Captain, Officers, Engineers, Firemen and Crew; shall pay for the Insurance on the Vessel and Consular Fees; also for all Deck, Galley and Engine Room Stores, bunker coal excepted, and maintain her in a thoroughly efficient state in Hull and Machinery for the service.

That the Charterers shall provide and pay for all Bunker Coals, Port, Light and Dock Charges, Pilotages, Agencies, Commissions, Labourage, Suez and other Canal Dues when incurred, also all charges appertaining to the cargoes they may put on board.

That the Charterers shall accept and pay for Coal in Ship's Bunkers upon commencement of hire, quantity not to exceed 250 tons at \$6.00 per ton, and the Owners shall, on expiry of this Charter-Party, pay for all Coal then left in the Bunkers, at current market price of the Port where the hire ends.

That the Charterers shall pay for the use and hire of the said Vessel at and after the rate of Four Shillings per ton on guaranteed deadweight as above, per calendar month, payment to be made in Cash in advance monthly, commencing on the day of delivery as aforesaid, hire to continue from the time specified for terminating the Charter until her re-delivery to Owner (unless lost) at a port in Australia, between Newcastle, N. S. W., and Port Pirie (both included) and to be payable in San Francisco, or at Owners' option by telegraphic transfer on London at their expense. Christmas Day and New Year's Day not to count, if in port.

Should the Vessel be on a voyage occupying more time than herein stipulated, the rate of hire for such additional period to be in the same proportion as above, and if re-delivered with Owners' consent before the expiration of the time stipulated, a corresponding rebate of hire to be allowed.

In default of punctual and regular payment or payments as herein specified, the Owners shall have the faculty of withdrawing the Vessel from the service of the Charterers, without prejudice to any claim they may otherwise have on the Charterers, in pursuance of this Charter.

That the Cargo or Cargoes shall be laden and/or discharged in any dock, or at any Wharf or place that Charterers may direct where the Vessel can always safely lie afloat.

That the whole reach, burthen and passenger accommodation, if any (for cattlemen and cabin pas-

sengers), of the Ship (not being more than she can reasonably stow and carry) shall be at the Charterers' disposal, reserving only proper and sufficient space for Ship's Officers, Crew, Tackle, Apparel, Furniture, Provisions and Stores. The Steamer to give the entire deck space for Stock. Ballast Tanks to be at the disposal of Charterers for conveyance of fresh water. Steamer not responsible for mortality, nor for Stock washed overboard. Charterers to have the privilege of loading any usual lawful deck cargo to be carried at Charterers' and/or Shippers' risk.

That the Captain shall prosecute his voyages with the utmost despatch, and shall render all customary assistance with any cranes and/or winches the Steamer has, also with her crew and boats (and likewise work the condenser when required), and when in port to work from 7 A. M. to 7 P. M., or during such hours as Charterers or their Agents may require, Charterers paying usual overtime. Charterers to provide and pay for winch drivers.

That the Captain shall be under the orders and direction of the Charterers as regards employment, agency, or other arrangements; and shall sign Bills of Lading as presented, and at any rate of freight the Charterers or their Agents may choose, without prejudice to this Charter-Party; and the Charterers hereby agree to indemnify the Owners from any consequences and liabilities that may arise from the Captain signing such Bills of Lading, or in his otherwise following the Charterers' instructions.

Owners to provide all ropes, falls, blocks and slings necessary for handling ordinary cargoes up to three tons weight, also sufficient lanterns for night work. Should Ship or Cargo be damaged through insufficiency or inefficiency of the Steamer's tackle, the loss or damage so occasioned to be assured or paid for by Owners.

That if the Charterers shall have reason to be dissatisfied with the conduct of the Captain, Officers, or Engineers, the Owners shall, on receiving particulars of the complaint, investigate the same, and, if necessary, make a change in the appointments.

That the Master shall be furnished from time to time with all requisite instructions and sailing directions, and shall keep a full and correct log of the voyage or voyages, which are to be patent to Charterers or their Agents.

That the Owners shall not be responsible for damage to or claims on cargo caused by bad stowage, the stevedores being employed by the Charterers.

Average, if any, to be settled according to York-Antwerp Rules, 1890.

That in the event of loss of time from deficiency of men or stores, breakdown of machinery, collision, docking, stranding, or other accident or damage preventing the working of the Vessel for more than twenty-four consecutive hours, the time lost shall be allowed to the Charterers; including first 24 hours, and if such detention shall exceed thirty days, Charterers to have the option of cancelling this Charter; but should the vessel be driven into port or to anchorage by stress of weather, or from accident to the Cargo, such detention or loss of time shall be at the Charterers' expense.

That should the Vessel be lost, the hire is to cease and determine on the day of her loss, and if missing from the date when last heard of, and any hire paid in advance and not earned shall be returned to Charterers.

That the ship has liberty to call at any ports in any order, to sail with or without pilots, and to tow and to assist Vessels in any situation, and to deviate for the purpose of saving life or property.

The Act of God, perils of the sea, fire, barratry of the Master and crew, enemies, pirates and thieves, arrests and restraints of princes, rulers and people, collisions, stranding, and other accidents of navigation excepted, even when occasioned by negligence, default or error in judgment of the Pilot, Master, Mariners, or other Servants of the Shipowners.

Ship not answerable for losses through explosion, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull, not resulting from

want of due diligence by the Owners of the Ship, or any of them, or by the Ships Husband or Manager.

That should any dispute arise between the Owners and Charterers as to the meaning and intention of this Charter-Party, or as to any act or thing to be done thereunder, the matter in dispute shall be referred to two Commercial persons in London, one to be appointed by each of the parties hereto in accordance with the provisions of the Arbitration Act, 1889, or any subsequent modifications thereof.

That the Owners shall have a lien upon all cargoes and sub-freights for arrears of hire, port charges, or any disbursements, coals, etc., unpaid, and Charterers to have a lien on the Ship for all moneys paid in advance and not earned.

That all salvages and derelects shall be for Owners' and Charterers' equal benefit.

In the event of war being declared during the currency of this Charter, by or against the nation to which the Steamer belongs, Charters to have the option of cancelling this Charter, and also the option of cancelling if Steamer is not delivered as above in seaworthy condition on or before January 20th, 1912, but hire not to commence before December 20, 1911, if required by Charterers.

Six and one-quarter per cent. commission is due on amount of Freight under this Charter, and any subsequent arrangements with same Principals, to David Bruce & Co., London, of which 5% to charterers, that for the first fixed period being payable on payment of freight herefor under this Charter-Party, vessel lost or not lost.

No Colonial or inter-Colonial trading, or not north of Vancouver.

Penalty for non-performance of this Contract estimated amount of damages.

Note A:—Owners to have liberty of bunkering vessel at Newcastle, Australia, declarable before steamer bunkers in North Pacific.

Note B:—Port charges at Newcastle, and time between arrival at and departure from aforesaid port

of Newcastle, to be for and account of owners, and to be deducted from hire due Owners.

Note C:—Should Owners take bunkers at Newcastle they are to supply Charterers with any extra bunkers they may require on the voyage between Newcastle and Port Pirie, and the Charterers to pay for such extra bunkers required at four shillings Stg. per ton of 2240 lbs. above actual cost of coal to Owners.

Note D:—Expense of lighterage incurred at Port Pirie, if any, owing to vessel bunkering at Newcastle, to be for and account of Owners.

(Signed) For The "Strathalbyn" Steamship Co., Ltd.,
Burrell & Sons, Managers, 11/12/11.

By Cable Authority.

For and on behalf of American Trading
Co. (Pacific Coast), San Francisco.

David Bruce & Co., as Agents.

Witness to signature of David Bruce & Co.,

D. L. Raitt.

(The original Charter-Party is in the possession
of Shallett Dale & Co.)

(Filed March 18, 1914.)

No. 1036.

STIPULATION TO TAKE TESTIMONY AT GLASGOW IN BEHALF OF LIBELLANTS.

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the respective parties hereto that the depositions of George T. Crerar, John Purdie, John B. Bodie (and such other witnesses as may appear for and in behalf of the libellants herein to answer the interrogatories propounded to John B. Bodie) may be taken before the Honorable John M. McCunn, the American Consul at Glasgow, Scotland, or before Alfred Middleton, Deputy American Consul at Glasgow, Scotland, or either or both of them, upon the interrogatories and cross-interrogatories attached hereto.

IT IS FURTHER AGREED that the said American Consul or Deputy American Consul is not a proctor, attorney or counsellor for the parties hereto, and is not interested in the event of this cause.

IT IS FURTHER STIPULATED AND AGREED that after the witnesses deposing pursuant hereto are duly cau-

tioned and sworn, that the testimony may be taken in shorthand and transcribed by the said American Consul or Deputy American Consul or each or both of them, and after being so transcribed may be returned to the above entitled court without being subscribed by the witnesses, the signatures of the witnesses thereto being expressly waived.

IT IS HEREBY FURTHER STIPULATED AND AGREED that such testimony may be considered and used in evidence in this cause, subject to all objections, except as to form of the questions.

IT IS FURTHER STIPULATED AND AGREED that upon the completion of the taking of such depositions, the said American Consul or Deputy Consul or either or both of them shall return the same in a sealed envelope together with this stipulation and the interrogatories and cross-interrogatories attached hereto to the above entitled court, addressing an envelope containing the same to "Hon. Frank Crosby, Clerk of the District Court of the United States for the Western District of Washington, Tacoma, Washington," and writing across the end of the envelope or package the title of the cause and "Depositions of Libellant's witnesses".

Done this 31st day of December, 1912.

HUFFER, HAYDEN & HAMILTON,
Proctors for libellant herein.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for respondent and claimant herein.

No. 1036.

INTERROGATORIES TO BE ADMINISTERED
TO GEORGE T. CRERAR, A WITNESS TO BE
PRODUCED, SWORN AND EXAMINED IN
A CERTAIN CAUSE OF ADMIRALTY AND
MARITIME JURISDICTION NOW ENDING
IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DISTRICT OF
WASHINGTON, SOUTHERN DIVISION,
WHEREIN STRATHALBYN STEAMSHIP
COMPANY, LTD., A CORPORATION, IS
LIBELLANT AGAINST THE STEAMSHIP
"VIRGINIAN", HER TACKLE, APPAREL,

FURNITURE, BOILER AND ENGINES, RESPONDENT, AND THE AMERICAN HAWAIIAN STEAMSHIP COMPANY, A CORPORATION, CLAIMANT, ON THE PART AND BEHALF OF THE LIBELLANT.

FIRST INTERROGATORY.

What is your name, age, place of residence and business or profession?

SECOND INTERROGATORY.

Are you the same George T. Crerar who was the master of the "Strathalbyn" on the 12th day of January, 1912, when she came into collision with the "Virginian" on Puget Sound between Robinson Point and Pully Point, and are you the same George T. Crerar who has heretofore testified in this case?

THIRD INTERROGATORY.

Have you ever measured the distance between the port light and the starboard light or the distance between the port light screen and the starboard light screen or any part thereof of the "Strathalbyn", or have you been present when any such measurements may have been made, referring particularly to the lights and light screens on the chartroom or lower bridge that were in use at the time of the collision between the "Strathalbyn" and "Virginian"?

FOURTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state when and where you made such measurements or when and where you were present when such measurements were made; and if anyone was present at any such measurements, state who they were; and if there are any circumstances that fix these matters and measurements in your mind, please state what they are in detail.

FIFTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state from what points the measurements were taken and to what points, and describe exactly how it was done.

SIXTH INTERROGATORY.

State whether or not you know the result of the measurements.

SEVENTH INTERROGATORY.

If you answer the sixth interrogatory in the affirmative, state what was the distance obtained by the measurements you have described and mentioned, going into detail as to the points between which the measurements so obtained and ascertained by you were taken.

EIGHTH INTERROGATORY.

Do you know what the distance was, on January 12, 1912, between the lights on the bridge above the chart room bridge,—that is, the lights above the lights that were in use at the time of the collision between the "Virginian" and "Strathalbyn", on January 12, 1912, and if so, state what that distance was, and whether or not the lights on the flying bridge would be inboard or outboard of a perpendicular line raised from the inboard side of the light screen on the chart room deck.

NINTH INTERROGATORY.

What was the width of the board forming the after end of the light screen on the chart room bridge at the time of the collision, if you know?

TENTH INTERROGATORY.

Do you remember whether the broad side of the stanchions or the narrow side of the stanchions that were holding the deck cargo upon the froward deck of the "Virginian" at the time of the collision was placed facing the bulwark rail, and if so, state whether the broad side of the stanchions or the narrow side of the stanchions was facing the rail?

ELEVENTH INTERROGATORY.

Attached to these interrogatories are five (5) photographs marked "Libellant's Identification S 1", "S 2", "S 3", "S 4" and "S 5" respectively, and ask you if you know what they represent and when they were taken, and, if you know about the photographs, to explain in detail what they were and have them marked by the American Consul or Deputy American Consul before whom this testimony may be taken as Libellant's exhibits corresponding with the identification numbers on each.

TWELFTH INTERROGATORY.

Referring to each of the identifications mentioned in interrogatory No. 11, mark upon each of the photographs where the light was positioned that was in use at the time of the collision between the "Strathalbyn" and "Virginian" and also mark and describe in your testimony, so that the same can be easily identified, the light screen on the flying bridge, and all other features of the pictures about which you may desire to testify in relation to their bearing upon the issue of the visibility of the "Strathalbyn" lights to the "Virginian".

THIRTEENTH INTERROGATORY.

How long since the collision with the "Virginian" have you been master of the "Strathalbyn"?

FOURTEENTH INTERROGATORY.

What was the distance at the time of the collision from the stem of the "Strathalbyn" to the break of her forecastle head?

FIFTEENTH INTERROGATORY.

On the night of the collision, what was the distance from the iron brackets in the light screens in use on the night of the collision to the forward edge of the chartroom deck?

SIXTEENTH INTERROGATORY.

State whether or not the mast-head light of the "Strathalbyn" flared up and sunk down prior to or after the collision.

SEVENTEENTH INTERROGATORY.

State whether or not the mast-head light gave a steady light, and if so, during what part of the passage from Tacoma to the point of collision and back again.

EIGHTEENTH INTERROGATORY.

Describe minutely how the side light screens that were in use on the "Strathalbyn" on the night of the collision between the "Strathalbyn" and "Virginian" were attached at that time to the "Strathalbyn".

NINETEENTH INTERROGATORY.

Referring to the light screens in which the lights were placed on the 12th of January, 1912, at the time of the collision between the "Strathalbyn" and the "Virginian," describe minutely how the light screens were at that time positioned with particular reference to the

object to which the side light screens were attached, the distance from the forward end of the light screen to the forward edge of the chart room bridge deck just below it, its height above that deck, how the lamps are placed and secured in the screens, and if the lamps are hung in the screens, describe the object on which the lamps are hung, and whether or not there was an iron bracket in the screen, its use and thickness, if you answer there was an iron bracket in the screen, and the distance between the outer side of the inboard side plank of the light screen and the inboard side of the iron bracket, if there was one, and whether or not there was a hole through the inboard side of the light screen and where that hole was with respect to the iron bracket, if any, and the purpose of the hole.

TWENTIETH INTERROGATORY.

Have you ever measured, or at any time been present when others measured the distance between the inboard side of the iron bracket in the port light screen and the inboard side of the iron bracket in the starboard light screen on the chart room or lower bridge, and if so, state when and where, and the distance as shown by such measurements.

TWENTY-FIRST INTERROGATORY.

If you answer interrogatory No. 20 in the affirmative and give the distance, state whether or not there had been any change that would increase or decrease the distance measured between the time of the collision up to the time of such measurements.

TWENTY-SECOND INTERROGATORY.

Do you know what the distance was, at the time of the collision between the "Strathalbyn" and the "Virginian," between the outside edge of the blocks in the forward end of the port and the forward end of the starboard light screens—on the chartroom or lower bridge—that is, the distance measured across the ship?

TWENTY-THIRD INTERROGATORY.

If you answer the twenty-second interrogatory in the affirmative, state what that distance was.

TWENTY-FOURTH INTERROGATORY.

State whether or not you observed the position of the stanchions supporting the forward deck-load of the

cargo after the loading of the cargo was completed or on the morning following the collision, and state how the stanchions were then erected which held the forward deck-load of the cargo as compared with the stanchions which were erected to hold the forward deck-load of the cargo when it was reloaded on the deck after the collision, and state how the position of the stanchions appearing in Libellant's Identification "S 2", "S 3", "S 4" and "S 5" compares with the appearance and position of the stanchions that held the original forward deck cargo.

TWENTY-FIFTH INTERROGATORY.

State whether or not the "Strathalbyn" was listed after the cargo was reloaded upon her after the collision, and state how that list compared with her list when she started on her voyage from Tacoma on the 12th of January, 1912, and prior to her collision with the "Virginian."

FIFTY-THIRD INTERROGATORY.

Attached to these interrogatories and marked "Libellant's Identification "S S" is a copy of a blue print introduced in evidence by the claimant and referred to in the testimony of Mr. Frank Walker. State whether or not the rays of light were, on the night of the collision, deflected by the stanchions as shown on this drawing, the lines marked and being referred to as the line of deflection of the light rays.

NO. 1036.

CROSS-INTERROGATORIES.

Cross-Interrogatories to be propounded to GEORGE T. CRERAR, a witness to be produced, sworn and examined in a certain cause of admiralty and maritime jurisdiction now pending in the District Court of the United States, for the Western District of Washington, Southern Division, wherein STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, is Libellant, against the Steamship "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent, and the AMERICAN HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant and Cross-Libellant, on the part and behalf of the Libellant:

Cross-Interrogatory No. 1:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not you were present during all the time that the said measurements were being made, and if so, state how the measurements were made, and by what persons the tapes, etc., were held, and what persons, if any, took down the notes of measurements so made at that time.

Cross-Interrogatory No. 2:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not such measurements were made jointly by C. R. M. Jack, a marine surveyor representing the Steamship "Strathalbyn" and her owners, and Frank Walker, a marine surveyor representing the Steamship "Virginian" and her owners, assisted by the first officer of the steamer "Strathalbyn," and William H. Logan, representative of the London Salvage Association.

Cross-Interrogatory No. 3:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker took down notes of the measurements so made, and whether or not any other persons took notes of such measurements, and if so, state who such other persons were, and whether you saw them taking notes.

Cross-Interrogatory No. 4:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker compared each and every measurement as taken, putting down their notes of the different measurements.

Cross-Interrogatory No. 5:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not Mr. W. H. Hayden, proctor representing the Steamship "Strathalbyn," and her owners, and Mr. Lawrence Bogle, proctor representing the

Steamship "Virginian" and her owners, were present at the time such measurements were made.

Cross-Interrogatory No. 6:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state if you know, whether such measurements were made by the said surveyors Jack and Walker in accordance with an agreement between the proctors in this case.

Cross-Interrogatory No. 7:

If you answer the preceding Cross-nterrogatory in the affirmative, state what your understanding of the agreement between the proctors in this case was, as to having the measurements of the "Strathalbyn."

Cross-Interrogatory No. 8:

If you answer Cross-Interrogatory No. 6 in the affirmative, state whether or not you understood that the proctors in this case agreed that they should each appoint a surveyor, and that the two surveyors so appointed should make the measurements of the steamship "Strathalbyn," and that the measurements so made and agreed upon by the said surveyors, should be taken as the correct measurements of the Steamship "Strathalbyn" for the purposes of this case, and that a blue-print should be made from the measurements of the "Strathalbyn" so agreed upon by these surveyors, and the said blue-print should be placed in evidence in this case as the correct blue-print of the Steamship "Strathalbyn," showing the correct measurements of the said vessel.

Cross-Interrogatory No. 9:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimault, B. C., state whether or not Frank Walker, a marine surveyor, was present at that time, and whether or not you knew that said Frank Walker was present as a surveyor representing the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 10:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimault, B. C., state whether or not ——— Jack, a marine surveyor, was present at that time, and whether or not you knew that said ——— Jack was present as a surveyor rep-

resenting the Steamship "Strathalbyn" and her owners.
Cross-Interrogatory No. 11:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimault, state, if you know, whether a blue-print was subsequently made from the measurements so taken at that time, and agreed upon by surveyors Jack and Walker, either by or under the direction of Jack, and state, if you know, whether this blue-print was ever signed and certified as being correct by the said surveyors, and both of them, as well as by Captain William H. Logan.

Cross-Interrogatory No. 12:

If in answer to the preceding Cross-Interrogatory, you state that such a blue-print was made, state whether or not you ever saw or conversed with ——— Jack, Frank Walker, or Captain William H. Logan, subsequent to the time of the making of the blue-print, and if so, whether any of these persons ever stated to you that this blue-print did not show the correct measurements of the Steamship "Strathalbyn."

Cross-Interrogatory No. 13:

State whether or not any person ever stated to you, either orally or in writing, or otherwise, that this blue-print did not show the correct measurements of the Steamship "Strathalbyn," or made any objection to you in connection with said blue-print, and if so, state who such person was, when this statement or objection was made, and if in writing, attach a copy of such statement or objection to your answers hereto, having the same first marked and identified as an exhibit by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 14:

State whether or not you have ever seen the blue-print of the Steamship "Strathalbyn" made from the joint notes of the surveyors Jack and Walker, or a copy thereof, and whether a copy of said blue-print is now or has at any time been in your possession, and if so, state who sent the said blue-print to you.

Cross-Interrogatory No. 15:

If in answer to Interrogatory No. 4, you state that such measurements were made at Esquimault, B. C.,

state whether you personally made any notes of the measurements made at that time.

Cross-Interrogatory No. 16:

If in answer to the preceding Cross-Interrogatory you state that you took notes of the measurements made of the Steamship "Strathalbyn" at Esquimault, B. C., at the time when she was measured by surveyors Jack and Walker, attach your original notes to your answers hereto, and have the same properly marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 17:

If in answer to Cross-Interrogatory No. 6, you state that you knew of no agreement between proctors in this case as to having these measurements taken, state just what your understanding was of the reason and purpose of having these measurements taken by surveyors representing the different parties in this cause, in the presence of the proctors for the different parties in this cause; also state your understanding of the reason and purpose of having a blue-print made from the notes of the said surveyors, and having the said blue-print signed as being correct by the said surveyors.

Cross-Interrogatory No. 18:

If you answer Interrogatory No. 3 in the affirmative, and in answer to Interrogatory No. 4 state that these measurements were made at some place other than at Esquimault, B. C., state when and where such measurements so testified to by you, were made, and at whose request the said measurements were made.

Cross-Interrogatory No. 19:

If in answer to Interrogatories Nos. 3 and 4 you state that these measurements were made at some other place than at Esquimault, B. C., state who was present at the time the said measurements were made.

Cross-Interrogatory No. 20:

If in answer to Interrogatories 3 and 4 you state that the measurements to which you have just testified were made at some other place than at Esquimault, B. C., state whether or not you were present at Esquimault, B. C., in the month of February or March, 1912, when

the measurements of the Steamship "Strathalbyn" were made by marine surveyors Frank Walker and ——— Jack.

Cross-Interrogatory No. 21:

If you answer the preceding Cross-Interrogatory in the affirmative, state if you know, whether surveyor Jack made such measurements as a representative of the Steamship "Strathalbyn" and her owners, and whether surveyor Walker made such measurements as a representative of the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 22:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, what the different measurements made by surveyor Jack were, and what the different measurements made by surveyor Walker were, and whether measurements made by these two surveyors were identical.

Cross-Interrogatory No. 23:

If you answer Cross-Interrogatory No. 20 in the affirmative, state, if you know, whether a blue-print was subsequently made by or under the direction of surveyor Jack, and also state if you know, whether this blue-print was subsequently compared and signed as correct by surveyors Jack and Walker.

Cross-Interrogatory No. 24:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have ever seen this blue-print, or a copy thereof, or whether you now have said blue-print or a copy thereof in your possession, and if so, who sent the said blue-print or copy thereof to you.

Cross-Interrogatory No. 25:

If you answer Cross-Interrogatory No. 20 in the affirmative, or have any knowledge or information as to the said blue-print, state whether or not any person has ever made any objection to the said blue-print to you upon the grounds that it did not show the correct measurements of the Steamship "Strathalbyn," or otherwise, and if so, state who that person was, and if the objection or communication was made in writing attach a copy hereto, and have the same properly marked and identified as an exhibit in this cause by the American

Consul or Deputy American Consul before whom this testimony is taken.

Cross-Interrogatory No. 26:

State the distance between the inner edge of the rail on the main deck, measured across the deck at a point directly in front of the superstructure of the Steamship "Strathalbyn."

Cross-Interrogatory No. 27:

State the distance across the main deck of the Steamship "Strathalbyn" between the inner edges of the rail, at a point six feet forward of the superstructure; also at a point 18 feet forward of the superstructure; also at a point 30 feet forward of the superstructure; also at a point 48 feet forward of the superstructure; also at a point 63 feet forward of the superstructure of the Steamship "Strathalbyn."

Cross-Interrogatory No. 28:

State the distance from the inboard side of the light screens, on the starboard and port sides of the "Strathalbyn" to the outer edge of the lower bridge deck; state the distance from the outer edge of the forward end of the light screens on the port and starboard sides of the "Strathalbyn," to the outer edge of the lower bridge deck; that is, to the extreme end of the lower bridge deck, on a line measured across the ship.

Cross-Interrogatory No. 29:

Give the dimensions of the forward ends of the light screens on the starboard and port sides of the "Strathalbyn"; that is, the height and width of the said forward end of the light screens.

Cross-Interrogatory No. 30:

If in answer to Interrogatory No. 9 you attempt to give the width of the board forming the after end of the light screen in the chart room bridge, state when you made this measurement, and whether or not the said measurement was made by you, or any other person or persons to your knowledge, at the time the "Strathalbyn" was measured by surveyors Jack and Walker at Esquimaux, B. C. Also state whether the chart room bridge referred to in said Interrogatories is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

Cross-Interrogatory No. 31:

If in answer to Interrogatory No. 11 you state that you know what the photographs therein referred to represent, and when they were taken, state whether or not you were present when these photographs were taken, and if you know by whom the said photographs were taken, and if so, give the name of the photographer.

Cross-Interrogatory No. 32:

State, if you were present, where the photographer was standing at the time each of the said photographs referred to in Interrogatory No. 11 was taken; and indicate on each of said photographs with the letter "X" a point directly in front of where the camera was placed when these photographs were taken.

Cross-Interrogatory No. 33:

If you were present when these photographs referred to in Interrogatory No. 11 were taken, state and also indicate upon the said photographs, the position of the camera, and the direction in which it was pointing at the time the photographs were taken.

Cross-Interrogatory No. 34:

Referring to the photograph marked "S1," indicate with the letter "Y" upon said photograph where the electric mast head light of the Steamship "Strathalbyn" is positioned.

Cross-Interrogatory No. 35:

State whether or not the light shown in photograph marked "S1" is the same light that was in use on the night of the collision between the "Strathalbyn" and the "Virginian."

Cross-Interrogatory No. 36:

State whether the light shown in photograph marked "S1," is in exactly the same position as it was on the night of the collision.

Cross-Interrogatory No. 37:

If in answer to Interrogatory No. 15, you attempt to give the distance from the iron brackets in the light screens in use on the night of the collision, to the forward edge of the chart room deck, state when this measurement was made and at whose request. Also state whether a similar measurement was made by you or by any person to your knowledge at the time the Steamship

"Strathalbyn" was surveyed by marine surveyors Jack and Walker at Esquimault, B. C., and if so, by whom.

Cross-Interrogatory No. 38:

If you answer Interrogatory No. 16 in the negative, state where you were standing when you made your observation of this mast head light.

Cross-Interrogatory No. 39:

State whether or not at any time on the night of the collision between the "Strathalbyn" and the "Virginian," you were in a position where you could see the direct rays of light from the mast head light of the Steamship "Virginian," and if so, state where you were standing when you saw the said rays.

Cross-Interrogatory No. 40:

State whether or not you made any examination of the mast head light of the Steamship "Strathalbyn" in use on the night of the collision, either before or after the collision, and if so, state when and where, and at what time you made the said examination.

Cross-Interrogatory No. 41:

If you answer Interrogatory No. 17 in the affirmative, state where you were positioned when you observed this mast head light giving a steady light.

Cross-Interrogatory No. 42:

State whether or not the side light screens and the iron brackets of said screens, or the construction of same or any part thereof, were constructed in accordance with the regulations of the British Board of Trade, or otherwise.

Cross-Interrogatory No. 43:

If in answer to Interrogatory No. 20, you state that the measurements therein called for were made at Esquimault, B. C., state whether or not said measurements were made by surveyors Jack and Walker, and if so, what the measurements were as made and agreed upon by said surveyors.

Cross-Interrogatory No. 44:

If you state in answer to Interrogatory No. 20, that you made these measurements yourself, either at Esquimault, B. C., or elsewhere, state in whose presence the measurements were made, and whether or not you took any notes of said measurements.

Cross-Interrogatory No. 45:

If you answer Interrogatory No. 22 in the affirmative, and in answer to Interrogatory No. 23 you attempt to give the measurements therein called for, state whether or not these measurements were made by surveyors Jack and Walker at Esquimault, B. C., and if so, state what the measurements made and agreed to by them were.

Cross-Interrogatory No. 46:

If in answer to Interrogatories Nos. 22 and 23, you state that you made these measurements personally, state who was present, and whether or not you took any notes of these measurements. Also state where the measurements were made and at whose request.

Cross-Interrogatory No. 47:

If in answer to Interrogatory No. 24, you state that the stanchions erected to hold the forward deck cargo of the Steamship "Strathalbyn," prior to the collision, appeared the same or about the same as the stanchions which were erected to hold the forward deck cargo of the "Strathalbyn" as it was reloaded subsequent to the collision, state whether or not you made any measurements to ascertain whether these stanchions were positioned the same both times, or whether you are testifying now merely from your recollection of the position of these stanchions before and after the collision.

Cross-Interrogatory No. 48:

If in answer to the preceding Cross-Interrogatory you state that you made measurements, give the distance across the ship from the top of the stanchions immediately in front of the superstructure, as the ship was loaded prior to the collision, and give the same distance across the tops of the same stanchions as the ship was loaded subsequent to the collision; give the same measurements between the other stanchions holding the deck cargo of the "Strathalbyn", both before and after the collision, as the ship was loaded and ready for sea.

Cross-Interrogatory No. 49:

State whether or not it was a part of your duty, or whether you had anything to do with the loading of the forward deck cargo of the "Strathalbyn," or the plac-

ing of the stanchions, etc., either prior to the collision or subsequent to the collision, and if so, state just what you had to do with the loading of these stanchions at either or both said times.

Cross-Interrogatory No. 50:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was loaded and on her voyage from Tacoma, Washington, to Australia, prior to the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance if you know, and do not try to approximate it.

Cross-Interrogatory No. 51:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was reloaded and on her voyage from Tacoma, Washington, to Australia, after the collision, tumble outward or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance, if you know, and do not approximate it.

Cross-Interrogatory No. 52:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma after reloading her forward deck cargo subsequent to the collision, state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 53:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma, after loading her forward deck cargo, prior to the collision; state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 54:

State the draft of the Steamship "Strathalbyn" fore and aft, after she was reloaded and on her voyage from Tacoma to Australia, subsequent to the collision.

Cross-Interrogatory No. 55:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, subsequent to the collision.

Cross-Interrogatory No. 56:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, prior to the collision.

Cross-Interrogatory No. 57:

If you answer Interrogatory No. 51 in the affirmative and give the name of the surveyor, state whether or not this survey was not made at the time the "Strathalbyn" was loaded for her voyage prior to the collision, instead of when she was reloaded subsequent to the collision. If you answer this Interrogatory in the affirmative, state who surveyed the cargo prior to the collision, and at what time this survey was made.

Cross-Interrogatory No. 58:

If you answer Interrogatory No. 53 in the negative, state whether or not you were in a position ahead of the "Strathalbyn" at any time on the night of the collision, or whether you were in any position on said night ahead of the lights so that you could ascertain and testify as to whether or not the line of lights was deflected by the stanchions.

Cross-Interrogatory No. 59:

If you answer Interrogatory No. 53 in the negative, state whether or not you are testifying from any actual facts within your knowledge, or whether you are merely giving your opinion based upon no actual knowledge of conditions on said night.

Cross-Interrogatory No. 60:

If you answer Interrogatory No. 53 in the negative, state whether or not you are the George T. Crerar who testified before the United States Inspectors of Hulls and Boilers in the City of Seattle, on or about the 19th day of January, 1912, with reference to this accident.

Cross-Interrogatory No. 61:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not the following questions were asked you, and whether or not you gave the following answers to said questions on that date:

Q. (By Captain Turner) "Are there any stanchions up there"?

A. (By Captain Crerar) "Yes sir."

Q. (By Captain Turner) "That could have been possibly in the range of that light?"

A. (By Captain Crerar) "I don't think so, I don't think they would obstruct the light at all, sir."

And again:

Q. (By Captain Whitney) "Are you sure that the stanchions were not extending high enough to obscure them?"

A. (By Captain Crerar) "Well, they were extending high enough, but I think they were inside of the line of the light."

Cross-Interrogatory No. 62:

If you state that the above questions were asked you on that date, and the above answers given by you, state whether or not you are in any better position at this time to testify as to whether or not the stanchions obscured the side lights of the "Strathalbyn", than you were when you gave the said testimony before the said Inspectors, a week after the accident.

Cross-Interrogatory No. 63:

State whether or not your recollection of the position of the stanchions on the night of the collision, and the location of the lights on the "Strathalbyn" at the said time, is any clearer at this time than it was at the time you testified before the Inspectors a week after the collision.

Cross-Interrogatory No. 64:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have received any communication or information since the date of testifying before the Inspectors of Hulls and Boilers, on the 19th day of January, 1912, which would tend to refresh your recollection as to the position of the stanchions and lights on the "Strathalbyn" on the night of the collision, and if so, from whom did you receive such communication or information.

Cross-Interrogatory No. 65:

If in answer to the preceding Cross-Interrogatory you state that you received some such communication or information, state whether or not the same was oral or in writing, and if in writing, attach a copy of the

communication hereto, and have the same marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

BOGLE, GRAVES, MERRITT & BOGLE,
Proctors for Respondent and Claimant.

No. 1036.

INTERROGATORIES TO BE ADMINISTERED TO JOHN PURDIE, A WITNESS OR WITNESSES TO BE PRODUCED, SWORN AND EXAMINED IN A CERTAIN CAUSE OF ADMIRALTY AND MARITIME JURISDICTION NOW PENDING IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF WASHINGTON, SOUTHERN DIVISION, WHEREIN STRATHALBYN STEAMSHIP COMPANY, LTD., A CORPORATION is LIBELLANT, AGAINST THE STEAMSHIP "VIRGINIAN", HER TACKLE, APPAREL, FURNITURE, BOILER AND ENGINES, RESPONDENT and THE AMERICAN HAWAIIAN STEAMSHIP COMPANY, A CORPORATION, CLAIMANT, ON THE PART AND BEHALF OF THE LIBELLANT.

FIRST INTERROGATORY.

What is your name, age, place of residence and business or profession-

SECOND INTERROGATORY.

Are you the same John Purdie who was the first mate of the "Strathalbyn" on the 12th day of January, 1912, when she came into collision with the "Virginian" on Puget Sound between Robinson Point and Pully Point, and are you the same John Purdie who has heretofore testified in this case?

THIRD INTERROGATORY.

Have you ever measured the distance between the port light and the starboard light or the distance between the port light screen and the starboard screen, or any part thereof, of the "Strathalbyn", or have you been present when any such measurements may have been made, referring particularly to the lights and light screens on the chart room or lower bridge that were in

use at the time of the collision between the "Strathalbyn" and "Virginian"?

FOURTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state when and where you made such measurements or when and where you were present when such measurements were made; and if anyone was present at any such measurements, state who they were; and if there are any circumstances that fix these matters and measurements in your mind, please state what they are in detail.

FIFTH INTERROGATORY.

If you answer the third interrogatory in the affirmative, state from what points the measurements were taken and to what points, and describe exactly how it was done.

SIXTH INTERROGATORY.

State whether or not you know the result of the measurements.

SEVENTH INTERROGATORY.

If you answer the sixth interrogatory in the affirmative, state what was the distance obtained by the measurements you have described and mentioned, going into detail as to the points between which the measurements so obtained and ascertained by you were taken.

EIGHTH INTERROGATORY.

Do you know what the distance was, on January 12, 1912, between the lights on the bridge above the chart room bridge,—that is, the lights above the lights that were in use at the time of the collision between the "Virginian" and "Strathalbyn", on January 12, 1912, and if so, state what that distance was, and whether or not the lights on the flying bridge would be inboard or outboard of a perpendicular line raised from the inboard side of the light screen on the chart room deck.

NINTH INTERROGATORY.

What was the width of the board forming the after end of the light screen on the chart room bridge at the time of the collision, if you know?

TENTH INTERROGATORY.

Do you remember whether the broad side of the stanchions or the narrow side of the stanchions that

were holding the deck cargo upon the forward deck of the "Virginian" at the time of the collision was placed facing the bulwark rail, and if so, state whether the broad side of the stanchions or the narrow side of the stanchions was facing the rail?

ELEVENTH INTERROGATORY.

Attached to these interrogatories are five (5) photographs marked "Libellant's Identification "S1", "S2", "S 3", "S 4" and "S 5" respectively, and ask you if you know what they represent and when they were taken, and, if you know about the photographs, to explain in detail what they were and have them marked by the American Consul or Deputy American Consul before whom this testimony may be taken as Libellant's exhibits corresponding with the identification numbers on each.

TWELFTH INTERROGATORY.

Referring to each of the identifications mentioned in interrogatory No. 11, mark upon each of the photographs where the light was positioned that was in use at the time of the collision between the "Strathalbyn" and the "Virginian" and also mark and describe in your testimony, so that the same can be easily identified, the light screen on the flying bridge, and all other features of the pictures about which you may desire to testify in relation to their bearing upon the issue of the visibility of the lights of the "Strathalbyn."

THIRTEENTH INTERROGATORY.

How long since the collision with the "Virginian" have you been first mate of the "Strathalbyn"?

FOURTEENTH INTERROGATORY.

What was the distance at the time of the collision from the stem of the "Strathalbyn" to the break of her forecastle head?

FIFTEENTH INTERROGATORY.

On the night of the collision, what was the distance from the iron brackets in the light screens in use on the night of the collision to the forward edge of the chart room deck?

SIXTEENTH INTERROGATORY.

State whether or not the mast-head light of the

"Strathalbyn" flared up and sunk down prior to or after the collision.

SEVENTEENTH INTERROGATORY.

State whether or not the mast-head light gave a steady light, and if so, during what part of the passage from Tacoma to the point of collision and back again.

EIGHTEENTH INTERROGATORY.

Describe minutely how the side light screens that were in use on the "Strathalbyn" on the night of the collision between the "Strathalbyn" and "Virginian" were attached at that time to the "Strathalbyn".

NINETEENTH INTERROGATORY.

Referring to the light screens in which the lights were placed on the 12th of January, 1912, at the time of the collision between the "Strathalbyn" and the "Virginian", describe minutely how the light screens were at that time positioned with particular reference to the object to which the side light screens were attached, the distance from the forward end of the light screen to the forward edge of the chart room bridge deck just below it, its height above that deck, how the lamps were placed and secured in the screens, and if the lamps were hung in the screens, describe the object on which the lamps were hung, and whether or not there was an iron bracket in the screen, its use and thickness, if you answer there was an iron bracket in the screen, and the distance between the outer side of the inboard side plank of the light screen and the inboard side of the iron bracket, if there was one, and whether or not there was a hole through the inboard side of the light screen and where that hole was with respect to the iron bracket, if any, and the purpose of the hole.

TWENTIETH INTERROGATORY.

Have you ever measured, or at any time been present when others measured the distance between the inboard side of the iron bracket in the port light screen and the inboard side of the iron bracket in the starboard light screen, on the chart room or lower bridge, and if so, state when and where, and the distance as shown by such measurements.

TWENTY-FIRST INTERROGATORY.

If you answer interrogatory No. 20 in the affirma-

tive and give the distance, state whether or not there had been any change that would increase or decrease the distance measured between the time of the collision up to the time of such measurements.

TWENTY-SECOND INTERROGATORY.

Do you know what the distance was, at the time of the collision between the "Strathalbyn" and the "Virginian", between the outside edge of the blocks in the forward end of the port and the forward end of the starboard light screens,—on the chart room or lower bridge,—that is, the distance measured across the ship?

TWENTY-THIRD INTERROGATORY.

If you answer the twenty-second interrogatory in the affirmative, state what that distance was.

TWENTY-FOURTH INTERROGATORY.

State who supervised the reloading of the cargo.

TWENTY-FIFTH INTERROGATORY.

State whether or not you observed the position of the stanchions supporting the forward deck-load of the cargo after the loading of the cargo was completed or on the morning following the collision, and state how the stanchions were then erected which held the forward deck-load of the cargo as compared with the stanchions which were erected to hold the forward deck-load of the cargo when it was reloaded on the deck after the collision, and state how the position of the stanchions appearing in Libellant's Identification "S 2", "S 3", "S 4" and "S 5" compares with the appearance and position of the stanchions that held the original forward deck cargo.

TWENTY-SIXTH INTERROGATORY.

State whether or not the "Strathalbyn" was listed after the cargo was reloaded upon her after the collision, and state how that list compared with her list when she started on her voyage from Tacoma on the 12th of January, 1912, and prior to her collision with the "Virginian".

TWENTY-SEVENTH INTERROGATORY.

State at what time and on what day the "Strathalbyn" was practically in the same position on her outward voyage after her repairs had been completed and

the cargo reloaded after the collision with the "Virginian", that she was in at the time of the collision.

THIRTY-FIFTH INTERROGATORY.

Attached to the interrogatories propounded to George T. Crerar and marked "S S" is a copy of a blue-print introduced in evidence by the claimant and referred to in the testimony of Mr. Frank Walker. State whether or not the rays of light were, on the night of the collision, deflected by the stanchions as shown on this drawing, the lines marked and being referred to as the line of deflection of the light rays.

HUFFER, HAYDEN & HAMILTON,
Proctors for Libellant.

CROSS-INTERROGATORIES.

Cross-Interrogatories to be propounded to JOHN PURDIE, a witness to be produced, sworn and examined in a certain cause of admiralty and maritime jurisdiction now pending in the District Court of the United States, for the Western District of Washington, Southern Division, wherein STRATHALBYN STEAMSHIP COMPANY, LTD., a corporation, is Libellant, against the Steamship "VIRGINIAN," her tackle, apparel, furniture, boilers and engines, Respondent, and the AMERICAN HAWAIIAN STEAMSHIP COMPANY, a corporation, Claimant and Cross-Libellant, on the part and behalf of the Libellant:

Cross-Interrogatory No. 1:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimaux, B. C., state whether or not you were present during all the time that the said measurements were being made, and if so, state how the measurements were made, and by what persons the tapes, etc., were held, and what persons, if any, took down the notes of measurements so made at that time.

Cross-Interrogatory No. 2:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimaux, B. C., state whether or not such measurements were made

jointly by C. P. M. Jack, a marine surveyor representing the Steamship "Strathalbyn" and her owners, and Frank Walker, a marine surveyor representing the Steamship "Virginian" and her owners, assisted by the first officer of the steamer "Strathalbyn," and William H. Logan, representative of the London Salvage Association.

Cross-Interrogatory No. 3:

If you answer Interrogatory No. 3 in the affirmative, and state in answer to Interrogatory No. 4 that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker took down notes of the measurements so made, and whether or not any other persons took notes of such measurements, and if so, state who such other persons were, and whether you saw them taking notes.

Cross-Interrogatory No. 4:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not the said surveyors Jack and Walker compared each and every measurement as taken, putting down their notes of the different measurements.

Cross-Interrogatory No. 5:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state whether or not Mr. W. H. Hayden, proctor representing the Steamship "Strathalbyn," and her owners, and Mr. Lawrence Bogle, proctor representing the Steamship "Virginian" and her owners, were present at the time such measurements were made.

Cross-Interrogatory No. 6:

If in answer to Interrogatories Nos. 3 and 4, you state that such measurements were made at Esquimault, B. C., state if you know, whether such measurements were made by the said surveyors Jack and Walker in accordance with an agreement between the proctors in this case.

Cross-Interrogatory No. 7:

If you answer the preceding Cross-Interrogatory in the affirmative, state what your understanding of the agreement between the proctors in this case was, as to having the measurements of the "Strathalbyn" made.

Cross-Interrogatory No. 8:

If you answer Cross-Interrogatory No. 6 in the affirmative, state whether or not you understood that the proctors in this case agreed that they should each appoint a surveyor, and that the two surveyors so appointed should make the measurements of the steamship "Strathalbyn", and that the measurements so made and agreed upon by the said surveyors, should be taken as the correct measurements of the Steamship "Strathalbyn" for the purposes of this case, and that a blue-print should be made from the measurements of the "Strathalbyn" so agreed upon by these surveyors, and the said blue-print should be placed in evidence in this case as the correct blue-print of the Steamship "Strathalbyn", showing the correct measurements of the said vessel.

Cross-Interrogatory No. 9:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimaux, B. C., state whether or not Frank Walker, a marine surveyor, was present at that time, and whether or not you knew that said Frank Walker was present as a surveyor representing the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 10:

If in answer to Interrogatory No. 4 you state that these measurements were made at Esquimaux, B. C., state whether or not C. P. M. Jack, a marine surveyor, was present at that time, and whether or not you knew that said C. P. M. Jack was present as a surveyor representing the Steamship "Strathalbyn" and her owners.

Cross-Interrogatory No. 11:

If in answer to Interrogatory No. 4, you state that these measurements were made at Esquimaux, B. C., state, if you know, whether a blue-print was subsequently made from the measurements so taken at that time, and agreed upon by surveyors Jack and Walker, either by or under the direction of Jack, and state, if you know, whether this blue-print was ever signed and certified as being correct by the said surveyors, and both of them, as well as by Captain William H. Logan.

Cross-Interrogatory No. 12:

If in your answer to the preceding Cross-Interrogatory, you state that such a blue-print was made, state

whether or not you ever saw or conversed with C. P. M. Jack, Frank Walker, or Captain William H. Logan, subsequent to the time of the making of the blue-print, and if so, whether any of these persons ever stated to you that this blue-print did not show the correct measurements of the Steamship "Strathalbyn".

Cross-Interrogatory No. 13:

State whether or not any person ever stated to you, either orally or in writing, or otherwise, that this blue-print did not show the correct measurements of the Steamship "Strathalbyn", or made any objection to you in connection with said blue-print, and if so, state who such person was, when this statement or objection was made, and if in writing, attach a copy of such statement or objection to your answers hereto, having the same first marked and identified as an exhibit by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 14:

State whether or not you have ever seen the blue-print of the Steamship "Strathalbyn" made from the joint notes of the surveyors Jack and Walker, or a copy thereof, and whether a copy of said blue-print is now or has at any time been in your possession, and if so, state who sent the said blue-print to you.

Cross-Interrogatory No. 15:

If in answer to Interrogatory No. 4 you state that such measurements were made at Esquimault, B. C., state whether you personally made any notes of the measurements made at that time.

Cross-Interrogatory No. 16:

If in answer to the preceding Cross-Interrogatory you state that you took notes of the measurements made of the Steamship "Strathalbyn" at Esquimault, B. C., at the time when she was measured by surveyors Jack and Walker, attach your original notes to your answers hereto, and have the same properly marked and identified as an exhibit in this same cause by the American Consul or Deputy American Consul, before whom this testimony is taken.

Cross-Interrogatory No. 17:

If in answer to Cross-Interrogatory No. 6, you

state that you knew of no agreement between proctors in this case as to having these measurements taken, state just what your understanding was of the reason and purpose of having these measurements taken by surveyors representing the different parties in this cause, in the presence of the proctors for the different parties in this cause; also state your understanding of the reason and purpose of having a blue-print made from the notes of the said surveyors, and having the said blue-print signed as being correct by the said surveyors.

Cross-Interrogatory No. 18:

If you answer Interrogatory No. 3 in the affirmative, and in answer to Interrogatory No. 4 state that these measurements were made at some place other than at Esquimault, B. C., state when and where such measurements so testified to by you, were made, and at whose request the said measurements were made.

Cross-Interrogatory No. 19:

If in answer to Interrogatories Nos. 3 and 4 you state that these measurements were made at some other place than at Esquimault, B. C., state who was present at the time the said measurements were made.

Cross-Interrogatory No. 20:

If in answer to Interrogatories 3 and 4 you state that the measurements to which you have just testified were made at some other place than at Esquimault, B. C., state whether or not you were present at Esquimault, B. C., in the month of February or March, 1912, when the measurements of the Steamship "Strathalbyn" were made by marine surveyors Frank Walker and C. P. M. Jack.

Cross-Interrogatory No. 21:

If you answer the preceding Cross-Interrogatory in the affirmative, state if you know, whether surveyor Jack made such measurements as a representative of the Steamship "Strathalbyn" and her owners, and whether surveyor Walker made such measurements as a representative of the Steamship "Virginian" and her owners.

Cross-Interrogatory No. 22:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, what the different measurements made by surveyor Jack were, and what the

different measurements made by surveyor Walker were, and whether the measurements made by these two surveyors were identical.

Cross-Interrogatory No. 23:

If you answer Cross-Interrogatory No. 20 in the affirmative, state if you know, whether a blue-print was subsequently made by or under the direction of surveyor Jack, and also state if you know, whether this blue-print was subsequently compared and signed as correct by surveyors Jack and Walker.

Cross-Interrogatory No. 24:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not you have ever seen this blue-print, or a copy thereof, or whether you now have said blue-print or a copy thereof in your possession, and if so, who sent the blue-print or copy thereof to you.

Cross-Interrogatory No. 25:

If you answer Cross-Interrogatory 20 in the affirmative, or have any knowledge or information as to the said blue-print, state whether or not any person has ever made any objection to the said blue-print to you upon the grounds that it did not show the correct measurements of the Steamship "Strathalbyn", or otherwise, and if so, state who that person was, and if the objection or communication was made in writing attach a copy hereto, and have the same properly marked and identified as an exhibit in this cause by the American Consul or Deputy American Consul before whom this testimony is taken.

Cross-Interrogatory No. 26:

State the distance between the inner edge of the rail on the main deck, measured across the deck at a point directly in front of the superstructure of the Steamship "Strathalbyn".

Cross-Interrogatory No. 27:

State the distance across the main deck of the Steamship "Strathalbyn" between the inner edges of the rail, at a point six feet forward of the superstructure; also at a point 18 feet forward of the superstructure; also at a point 30 feet forward of the superstructure; also at a point 48 feet forward of the superstructure;

also at a point 63 feet forward of the superstructure of the Steamship "Strathalbyn".

Cross-Interrogatory No. 28:

State the distance from the inboard side of the light screens, on the starboard and port sides of the "Strathalbyn" to the outer edge of the lower bridge deck; state the distance from the outer edge of the forward end of the light screens on the port and starboard sides of the "Strathalbyn", to the outer edge of the lower bridge deck; that is, to the extreme end of the lower bridge deck, on a line measured across the ship.

Cross-Interrogatory No. 29:

Give the dimensions of the forward ends of the light screens on the starboard and port sides of the "Strathalbyn", that is, the height and width of the said forward end of the light screens.

Cross-Interrogatory No. 30:

If in answer to Interrogatory No. 9 you attempt to give the width of the board forming the after end of the light screen in the chart room bridge, state when you made this measurement, and whether or not the said measurement was made by you, or any other person or persons to your knowledge, at the time the "Strathalbyn" was measured by surveyors Jack and Walker at Esquimalt, B. C. Also state whether the chart room bridge referred to in said Interrogatories is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

Cross-Interrogatory No. 31:

If in answer to Interrogatory No. 11 you state that you know what the photographs therein referred to represent, and when they were taken, state whether or not you were present when these photographs were taken, and if you know by whom the said photographs were taken, and if so, give the name of the photographer.

Cross-Interrogatory No. 32:

State, if you were present, where the photographer was standing at the time each of the said photographs referred to in Interrogatory No. 11 was taken, and indicate on each of said photographs with the letter "X" a point directly in front of where the camera was placed when these photographs were taken.

Cross-Interrogatory No. 33:

If you were present when these photographs referred to in Interrogatory No. 11 were taken, state and also indicate upon the said photographs, the position of the camera, and the direction in which it was pointing at the time the photographs were taken.

Cross-Interrogatory No. 34:

Referring to the photograph marked "S1", indicate with the letter "Y" upon said photograph where the electric mast head light of the Steamship "Strathalbyn" is positioned.

Cross-Interrogatory No. 35:

State whether or not the light shown in photograph marked "S1", is the same light that was in use on the night of the collision between the "Strathalbyn" and the "Virginian".

Cross-Interrogatory No. 36:

State whether the light shown in photograph marked "S1", is in exactly the same position as it was on the night of the collision.

Cross-Interrogatory No. 37:

If in answer to Interrogatory No. 15, you attempt to give the distance from the iron brackets in the light screens in use on the night of the collision, to the forward edge of the chart room deck, state when this measurement was made and at whose request. Also state whether a similar measurement was made by you or by any person to your knowledge at the time the Steamship "Strathalbyn" was surveyed by marine surveyors Jack and Walker at Esquimault, B. C., and if so, by whom.

Cross-Interrogatory No. 38:

If you answer Interrogatory No. 16 in the negative, state where you were standing when you made your observation of this mast head light.

Cross-Interrogatory No. 39:

State whether or not at any time on the night of the collision between the "Strathalbyn" and the "Virginian", you were in a position where you could see the direct rays of light from the mast head light of the Steamship "Virginian", and if so, state where you were standing when you saw the said rays.

Cross-Interrogatory No. 40:

State whether or not you made any examination of the mast head light of the Steamship "Strathalbyn" in use on the night of the collision, either before or after the collision, and if so, state when and where, and at what time you made the said examination.

Cross-Interrogatory No. 41:

If your answer Interrogatory No. 17 in the affirmative, state where you were positioned when you observed this mast head light giving a steady light.

Cross-Interrogatory No. 42:

State whether or not the side light screens and the iron brackets of said screens, or the construction of same or any part thereof, were constructed in accordance with the regulations of the British Board of Trade, or otherwise.

Cross-Interrogatory No. 43:

If in answer to Interrogatory No. 20, you state that the measurements therein called for were made at Esquimalt, B. C., state whether or not said measurements were made by surveyors Jack and Walker, and if so, what the measurements were as made and agreed upon by said surveyors.

Cross-Interrogatory No. 44:

If you state in answer to Interrogatory No. 20, that you made these measurements yourself, either at Esquimalt, B. C., or elsewhere, state in whose presence the measurements were made, and whether or not you took any notes of said measurements.

Cross-Interrogatory No. 45:

If you answer Interrogatory No. 22 in the affirmative, and in answer to Interrogatory No. 23 you attempt to give the measurements therein called for, state whether or not these measurements were made by surveyors Jack and Walker at Esquimalt, B. C., and if so, state what the measurements made and agreed to by them were.

Cross-Interrogatory No. 46:

If in answer to Interrogatories Nos. 22 and 23, you state that you made these measurements personally, state who was present, and whether or not you took any notes

of these measurements. Also state where the measurements were made and at whose request.

Cross-Interrogatory No. 47:

If in answer to Interrogatory No. 25, you state that the stanchions erected to hold the forward deck cargo of the Steamship "Strathalbyn", prior to the collision, appeared the same or about the same as the stanchions which were erected to hold the forward deck cargo of the "Strathalbyn" as it was reloaded subsequent to the collision, state whether or not you made any measurements to ascertain whether these stanchions were positioned the same both times, or whether you are testifying now merely from your recollection of the position of these stanchions before and after the collision.

Cross-Interrogatory No. 48:

If in answer to the preceding Cross-Interrogatory you state that you made measurements, give the distance across the ship from the top of the stanchions immediately in front of the superstructure, as the ship was loaded prior to the collision, and give the same distance across the tops of the same stanchions as the ship was loaded subsequent to the collision; give the same measurements between the other stanchions holding the deck cargo of the "Strathalbyn", both before and after the collision, as the ship was loaded and ready for sea.

Cross-Interrogatory No. 49:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was loaded and on her voyage from Tacoma, Washington, to Australia, prior to the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main deck. In answering this question, give the exact distance if you know, and do not try to approximate it.

Cross-Interrogatory No. 50:

Did the first stanchion forward on the port side of the Steamship "Strathalbyn", after she was reloaded and on her voyage from Tacoma, Washington, to Australia, after the collision, tumble outboard or inboard, and if so, state exactly how much this stanchion tumbled either way, from a vertical line drawn from the main

deck. In answering this question, give the exact distance, if you know, and do not approximate it.

Cross-Interrogatory No. 51:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma after reloading her forward deck cargo subsequent to the collision, state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 52:

State exactly how much of a list the Steamship "Strathalbyn" had when leaving Tacoma, after loading her forward deck cargo, prior to the collision; state just exactly how you arrive at the amount of list, if any.

Cross-Interrogatory No. 53:

State the draft of the Steamship "Strathalbyn" fore and aft, after she was reloaded and on her voyage from Tacoma to Australia, subsequent to the collision.

Cross-Interrogatory No. 54:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, subsequent to the collision.

Cross-Interrogatory No. 55:

How many feet of lumber were loaded on the forward deck of the Steamship "Strathalbyn" when she left the port of Tacoma for Australia, prior to the collision.

Cross-Interrogatory No. 56:

If you answer Interrogatory No. 35 in the negative, state whether or not you were in a position ahead of the "Strathalbyn" at any time on the night of the collision, or whether you were in any position on said night ahead of the lights so that you could ascertain and testify as to whether or not the line of lights was deflected by the stanchions.

Cross-Interrogatory No. 57:

If you answer Interrogatory No. 53 in the negative, state whether or not you are testifying from any actual facts within your knowledge, or whether you are merely giving your opinion based upon no actual knowledge of conditions on said night.

Cross-Interrogatory No. 58:

If you answer Interrogatory No. 53 in the negative,

state whether or not you are the John Purdie who testified before the United States Inspectors of Hulls and Boilers in the City of Seattle, on or about the 23rd day of January, 1912, with reference to this accident.

Cross-Interrogatory No. 59:

If you answer the preceding Cross-Interrogatory in the affirmative, state whether or not the following question was asked you, and whether or not you gave the following answer to said question on that date:

Q. (By Captain Turner) "And you saw the lights yourself from the forecandle head?"

A. (By John Purdie) "Yes".

BOGLE, GRAVES, MERRITT & BOGLE,,
Proctors for Respondent and Claimant.

NO. 1036.

BE IT KNOWN, that acting under and by virtue of the annexed commission issued in the above entitled and numbered suit by the above Court, and authority in me vested, I, John Niven McCunn, Consul of the United States, at Glasgow, Scotland, did cause to personally come and appear before me on this sixth day of March, nineteen hundred and thirteen, at the hour of ten o'clock, forenoon, at the United States Consulate at Glasgow, Scotland, George T. Crerar, John Purdie, and John B. Bodie, witnesses named in the annexed commission, and after having first duly sworn them according to law to tell the whole truth and to truthfully answer the annexed interrogatories and cross interrogatories, I did then propound to them the said interrogatories and cross interrogatories, to which they made answer as follows, to-wit:

GEORGE T. CRERAR, being duly sworn, doth depose and say as follows:

FIRST: To the first interrogatory he saith:

George Thomas Crerar; age, 42; place of residence, 63 Devliegar Street, Rotterdam; shipmaster.

SECOND: To the second interrogatory he saith:

I am.

THIRD: To the third interrogatory he saith:

I have.

FOURTH: To the fourth interrogatory he saith:

I made such measurements at Esquimalt some days before the 19th day of February, 1912—I cannot remember the exact date—with the assistance of the chief officer. I measured the distance between the brackets of the light screens. I was present on 19th February when measurements were taken by the surveyors, Messrs. Jack, Walker and Logan. Mr. Hayden, Mr. Bogle and the chief officer were also present. The circumstance that fixes the matter in my mind is the fact that when the surveyors took the same measurement as I had previously taken with the chief officer the same result was obtained. Subsequently, in May, 1912, at Sydney, New South Wales, on receipt of a cable from Mr. Hayden of Tacoma, I made the same measurement, with the assistance of the chief officer, as I had made previously, with the same result. I now put in a copy of the telegrams I exchanged with Mr. Hayden, and also copy of a letter I wrote to Mr. Hayden in reference to those measurements. (Said documents now marked exhibits U. and V.)

FIFTH: To the fifth interrogatory he saith:

I refer to my previous answer. Other measurements were made, but I do not remember them.

SIXTH: To the sixth interrogatory he saith:

I only know the result of that one measurement.

SEVENTH: To the seventh interrogatory he saith:

The measurements were taken with a tape measure between the inside part of the upright bracket on the port light screen and the inside part of the upright bracket on the starboard light screen. The distance so obtained was 46 feet 10 inches.

EIGHTH: To the eighth interrogatory he saith:

No, I do not know the distance. They would be in-board of a perpendicular line raised from the inside edge of the light screen on the lower bridge.

NINTH: To the ninth interrogatory he saith:

I do not know.

TENTH: To the tenth interrogatory he saith:

The broad side of the stanchions was facing the rail.

ELEVENTH: To the eleventh interrogatory he saith:

I was not present when those Photographs were taken, but from my knowledge of the "Strathalbyn" I

am able to identify some of those photographs. S.1 is a photograph of the foremast of the "Strathalbyn" showing the electric light in position, and the cage for the oil lamp underneath the electric light. It also shows the fore stay and the eye-bolts for the derrick lifts, the use of which is illustrated in the photograph S.4. S.2 represents the port side of the "Strathalbyn", showing the stanchions and some of the lashings holding the deck load. There is nothing on S.3 to enable me to identify it as a photograph of any part of the "Strathalbyn". S.4 is a photograph taken from ahead of the "Strathalbyn" on the port bow while the cargo was being reloaded. S.5 is a photograph of the "Strathalbyn" after the loading was finished.

TWELFTH: To the twelfth interrogatory he saith:

I have marked the position of the masthead light with a cross on S.1. I have marked with a cross on S.2 a point opposite where the port side light was. I have marked the light screen on the upper bridge with an arrow pointing towards it. I have marked on S.5 a cross opposite the light that was in use on the night of the collision. I have also marked on S.5 an arrow pointing towards the screen on the upper bridge. I wish to call attention to photograph S.1. That photograph has evidently been taken with the camera pointing upwards, and the fore stay appears in the photograph to go up in front of the light, and in fact it comes down. I also want to draw attention to the eye-bolts on the ends of the crosstrees. On a dark night the glare which surrounds the light reflects on this fore stay and those eye-bolts, so that a person on the bridge can see at any time whether the masthead light is burning or not. S.2 and S.5 show that the side screens on the upper bridge are slightly inboard of those on the lower bridge.

THIRTEENTH: To this thirteenth interrogatory he saith:

About nine months.

FOURTEENTH: To the fourteenth interrogatory he saith:

I do not know.

FIFTEENTH: To the fifteenth interrogatory he saith:

I never measured that, but I should judge it to be a little over four feet.

SIXTEENTH: To the sixteenth interrogatory he saith:

Not at any time I saw it.

SEVENTEENTH: To the seventeenth interrogatory he saith:

Yes, all the time from Tacoma to the point of collision and back again, when I was on deck.

EIGHTEENTH: To the eighteenth interrogatory he saith:

The side screens were bolted or screwed to the bulwark round the lower bridge.

NINETEENTH: To the nineteenth interrogatory he saith:

They were bolted or screwed outside the wooden bulwark round the lower bridge. I never measured the distance from the forward end of the light screen to the forward end of the chart room bridge deck just below it, but should judge it to be about eight inches. I did not measure the height, but should think about two inches. The lamps were hung on an iron bracket and secured with a screw bolt. The bracket is an iron bracket screwed on to the inboard plank of the light screen. The bracket is about half an inch thick. The distance between the outer side of the inboard plank of the light screen and the inside of the iron bracket would be about an inch and a half. There was a hole through the wooden bulwark and through the inboard plank of the light screen, immediately behind the bracket, for the purpose of allowing a person to put his hand through and screw up the bolt when the lamp was in position.

TWENTIETH. To the twentieth interrogatory he saith:

Yes, I have. I have already answered that question in answer to interrogatory No. 4. The distance was 46 feet 10 inches.

TWENTY-FIRST: To the twenty-first interrogatory he saith:

There was no change between the time of the collision and the time when the measurements were taken, nor at any time when I was on the vessel. It would not be

possible to make any change without making an alteration of the bulwark to which the screen was attached.

TWENTY-SECOND: To the twenty-second interrogatory he saith:

No, I do not.

TWENTY-THIRD: To the twenty-third interrogatory he saith:

I have answered the twenty-second interrogatory in the negative.

TWENTY-FOURTH: To the twenty-fourth interrogatory he saith:

Yes. They appeared to me to be in the same position, to my observation. The position of the stanchions in the photographs S.2, S.4 and S.5 appear to me to be the same as those that held the original deck cargo.

TWENTY-FIFTH: To the twenty-fifth interrogatory he saith:

She had a similar list on both occasions.

FIFTY-THIRD: To the fifty-third interrogatory he saith: No.

CROSS INTERROGATORIES.

FIRST: To the first cross interrogatory he saith:

I was not present during all the time. The measurements were made with a tape measure. The end of the tape was held by the chief officer, and the other end was held at different times by Mr. Jack, Mr. Walker, and I believe also by Mr. Logan. Mr. Jack, Mr. Walker, and I think also Mr. Logan took notes. I also saw Mr. Hayden taking some notes.

SECOND: To the second cross interrogatory he saith: They were.

THIRD: To the third cross interrogatory he saith:

Yes, Mr. Jack and Mr. Walker took notes, and also Captain Logan, and Mr. Hayden; I saw them taking notes.

FOURTH: To the fourth cross interrogatory he saith:

I saw and heard them comparing some of the notes, but I do not know whether they compared each and every measurement, nor whether they noted each and every measurement.

FIFTH: To the fifth cross interrogatory he saith:

They were.

SIXTH: To the sixth cross interrogatory he saith:

I understood that.

SEVENTH: To the seventh cross interrogatory he saith:

I understood that the purpose was to have the measurements made and agreed to so that each side would be satisfied of their correctness.

EIGHTH: To the eighth cross interrogatory he saith:

Yes, I understood the proctors agreed that they would each appoint a surveyor. I understood that the two surveyors appointed by the proctors would make measurements of the steamship "Strathalbyn". I know nothing further about the matter than what I have stated.

NINTH: To the ninth cross interrogatory he saith:

Yes; I knew that.

TENTH: To the tenth cross interrogatory he saith:

Yes; I knew that.

ELEVENTH: To the eleventh cross interrogatory he saith:

I know nothing of the blue print.

TWELFTH: To the twelfth cross interrogatory he saith:

I know nothing whatever of the blue print, and had no conversation with anybody with regard to it.

THIRTEENTH: To the thirteenth cross interrogatory he saith:

FOURTEENTH: To the fourteenth cross-interrogatory he saith:

No, I have never seen the blue print, and have not and never had a copy of it in my possession.

FIFTEENTH: To the fifteenth cross interrogatory he saith:

No.

SIXTEENTH: To the sixteenth cross interrogatory he saith:

My previous answer covers that.

SEVENTEENTH: To the seventeenth cross interrogatory he saith:

I refer to my answer to cross interrogatory No. 6.

EIGHTEENTH: To the eighteenth cross interrogatory he saith:

They were made at Sydney, New South Wales, on receipt of a cable from Mr. Hayden of Tacoma.

NINETEENTH: To the nineteenth cross interrogatory he saith:

Mr. Purdie, the chief officer.

TWENTIETH: To the twentieth cross interrogatory he saith.

Yes, I was present.

TWENTY-FIRST: To the twenty-first cross interrogatory he saith:

I have already answered that I did know that.

TWENTY-SECOND: To the twenty-second cross interrogatory he saith:

I cannot remember the measurements they made, and cannot tell whether the measurements they made were identical or not.

TWENTY-THIRD: To the twenty-third cross interrogatory he saith:

I have no knowledge of the blue print.

TWENTY-FOURTH: To the twenty-fourth cross interrogatory he saith:

I have answered the previous question in the negative.

TWENTY-FIFTH: To the twenty-fifth cross interrogatory he saith:

I have never spoken with, or had any communication from, any one regarding the blue print.

TWENTY-SIXTH: To the twenty-sixth cross interrogatory he saith:

I was present when that measurement was made, but I do not remember it.

TWENTY-SEVENTH: To the twenty-seventh cross interrogatory he saith:

I was present when some of those measurements were made, but I made no notes, and do not remember them.

TWENTY-EIGHTH: To the twenty-eighth cross interrogatory he saith:

I do not know.

TWENTY-NINTH: To the twenty-ninth cross interrogatory he saith:

I do not know.

THIRTIETH: To the thirtieth cross interrogatory he saith:

I do not know and I did not see anyone making this measurement. The chart room bridge is the same as the lower bridge deck upon which the lights were placed on the night of the collision.

THIRTY-FIRST: To the thirty-first cross interrogatory he saith:

I was not present, and I do not know who the photographer was.

THIRTY-SECOND: To the thirty-second cross interrogatory he saith:

I was not present.

THIRTY-THIRD: To the thirty-third cross interrogatory he saith:

I was not present.

THIRTY-FOURTH: To the thirty-fourth cross interrogatory he saith:

I have marked the photograph S.1 with a "Y" beside the electric masthead light.

THIRTY-FIFTH: To the thirty-fifth cross interrogatory he saith:

No.

THIRTY-SIXTH: To the thirty-sixth cross interrogatory he saith:

Yes.

THIRTY-SEVENTH: To the thirty-seventh cross interrogatory he saith:

I did not measure, and to my knowledge no measurement was taken.

THIRTY-EIGHTH: To the thirty-eighth cross interrogatory he saith:

On the upper and lower bridge decks, and also on the forecastlehead deck.

THIRTY-NINTH: To the thirty-ninth cross interrogatory he saith:

Yes; from the upper and lower bridge decks.

FORTIETH: To the fortieth cross interrogatory he saith:

No, I made no examination, having no occasion to do so.

FORTY-FIRST: To the forty-first cross interrogatory he saith:

I was on the upper and lower bridge decks, and also on the forecandlehead deck.

FORTY-SECOND: To the forty-second cross interrogatory he saith:

Yes. I want to hand in as evidence the Board of Trade certificate for the lights on board the "Strathalbyn". (Said certificate now marked exhibit W).

FORTY-THIRD: To the forty-third cross interrogatory he saith:

I only remember the result of one measurement made at that time. That measurement was between the brackets on the side screens, measured across the ship, and the distance was 46 feet 10 inches.

FORTY-FOURTH: To the forty-fourth cross interrogatory he saith:

They were made in the presence of the chief officer. I made no notes of them.

FORTY-FIFTH: To the forty-fifth cross interrogatory he saith:

I did not see them make that measurement.

FORTY-SIXTH: To the forty-sixth cross interrogatory he saith:

I did not make those measurements.

FORTY-SEVENTH: To the forty-seventh cross-interrogatory he saith:

My answer to Interrogatory No. 24 was based on actual observation. My recollection is quite clear, and I am testifying from my recollection; I made no measurements.

FORTY-EIGHTH: To the forty-eighth cross interrogatory he saith:

I made no measurements.

FORTY-NINTH: To the forty-ninth cross interrogatory he saith:

The responsibility rests with me to see that the ship is properly laden and seaworthy. This involves my being satisfied that the lights are in no way obstructed. The overlooking of the cargo in detail rests with the chief officer.

FIFTIETH: To the fiftieth cross interrogatory he saith:

The stanchion tumbled inboard, but not having measured I do not know to what extent.

FIFTY-FIRST: To the fifty-first cross interrogatory he saith:

The same answer applies.

FIFTY-SECOND: To the fifty-second cross interrogatory he saith:

A list of six degrees, arrived at in the usual way, by observation of the clinometer on the standard compass.

FIFTY-THIRD: To the fifty-third cross interrogatory he saith:

The same list, arrived at in the same way.

FIFTY-FOURTH: To the fifty-fourth cross interrogatory he saith:

23 feet 3 forward; 23 feet 5 aft.

FIFTY-FIFTH: To the fifty-fifth cross interrogatory he saith:

I do not know; no separate tally was kept of the deck cargo.

FIFTY-SIXTH: To the fifty-sixth cross interrogatory he saith:

I do not know; no separate tally was kept of the deck cargo.

FIFTY-SEVENTH: To the fifty-seventh cross interrogatory he saith:

My answer to the first part of this interrogatory is no. No survey was held when the ship was loaded prior to the collision.

FIFTY-EIGHTH: To the fifty-eighth cross interrogatory he saith:

I was in a position ahead of the lights after the collision when I went on the forecandlehead to examine the damage. I looked at the port light, and do now testify that the line of the port light was not deflected by the stanchions.

FIFTY-NINTH: To the fifty-ninth cross interrogatory he saith:

I am testifying from actual knowledge.

SIXTIETH: To the sixtieth cross interrogatory he saith:

Yes, I am.

SIXTY-FIRST: To the sixty-first cross interrogatory he saith:

I cannot remember all the questions that were asked me or the answers I gave, but if they are recorded in the evidence as set out in this question, I have no doubt the record is correct.

SIXTY-SECOND: To the sixty-second cross interrogatory he saith:

I consider I am in as good a position now to testify as I was at the time of the Inquiry before the inspectors. Moreover I have seen the deck cargo reloaded on the ship and have had opportunity for particular observation.

SIXTY-THIRD: To the sixty-third cross interrogatory he saith:

My recollection is just as clear. I never had any doubt or uncertainty on the subject.

SIXTY-FOURTH: To the sixty-fourth cross interrogatory he saith:

No.

SIXTY-FIFTH: To the sixty-fifth cross interrogatory he saith:

I have had no communication.

JOHN PURDIE, being duly sworn, doth depose and say as follows:

FIRST: To the first interrogatory he saith:

John Purdie: 47 years of age: business, seaman; address, 65 Cadder Street, Pollokshields, Glasgow.

SECOND: To the second interrogatory he saith:

I am.

THIRD: To the third interrogatory he saith:

Yes, I have measured the distance between the port light and the starboard light on several occasions, and, in particular, I remember measuring it on the 18th January at Tacoma. The distance between them, inside of the wicks, was ascertained by measuring between the chimneys by means of a tape line stretched across the chart room or bridge deck bulwark rail, and between points immediately above each of the chimneys. I was also present when a measurement was made at Esquimalt, when I assisted the captain to measure between the

inside edges of the upright portions of the iron brackets on the screens. I was also present on the 19th February at Esquimalt when these measurements were again taken in the presence of Messrs. Jack, Walker and Logan, and Mr. Hayden and Mr. Bogle. The reason why that measurement is impressed on my memory is on account of the number of people who were present, and also from the fact that when a measurement between the chimneys had been taken, after some discussion Mr. Walker insisted on another measurement being taken between the blocks on the forward end of the screens. I also assisted on the 6th of May, 1912, at Sydney, Australia, to take a measurement between the inboard sides of the brackets; I assisted the captain to make that measurement.

FOURTH: To the fourth interrogatory he saith:

I took a measurement at Tacoma on the 18th January, 1912, between the chimneys. I also took a measurement at Esquimalt, on a date that I do not recollect, between the inboard side of the upright part of the brackets. I was present when these same measurements were taken in the presence of the various people I have already mentioned. I was also present on the 6th of May, 1912, in Sydney, when we again took a measurement between the brackets. What impressed the taking of those measurements at Esquimalt on 19th February, 1912, on my mind was the fact of so many people being present, and, as I have already stated, on the taking of the measurements between the chimneys Mr. Walker insisted that we should take a measurement between the blocks on the screens, which was done, and it was found to be the same.

FIFTH: To the fifth interrogatory he saith:

The measurement taken at Tacoma in relation to the lights was taken between the inside edges of the wick, ascertained by measuring between the chimneys by means of a tape line stretched across the deck, and between points immediately above each of the chimneys. We also measured in Sydney, Australia, by means of the tape between the iron brackets.

SIXTH: To the sixth interrogatory he saith:

I do.

SEVENTH: To the seventh interrogatory he saith:

The distance obtained by measurement between the chimneys was 47 feet 7, and the measurement between the blocks was 47 feet 7. The measurement between the iron brackets was 46 feet 10.

EIGHTH: To the eighth interrogatory he saith:

I do not know the distance between the lights, but the lights on the flying bridge would be a little inboard of the lights on the lower bridge, on account of the build of the steamer.

NINTH: To the ninth interrogatory he saith:

I do not know; I have not taken a measurement.

TENTH: To the tenth interrogatory he saith:

The broad side of the stanchions was facing the rail.

ELEVENTH: To the eleventh interrogatory he saith:

The photographs were taken on the 20th of March, 1912. S.1 represents part of the foremast of the "Strathalbyn", with the electric masthead light in position, and the cage for the oil lamp underneath. S.2 is a view of the port side of the deck load, showing the stanchions and some of the lashings in position. It also shows part of the bridge with electric side light on the upper bridge, and side light screen on the lower bridge. S.3 represents the port side light screen, also the main rail and stanchions, and a portion of the deck load of the "Strathalbyn". S.4 represents the "Strathalbyn" lying loaded at Milwaukee Dock, Tacoma. This photograph was taken from a launch straight ahead of the ship. I remember seeing that photograph being taken. The photograph S.5 was also taken from the launch, a little closer to the ship. It merely shows the electric masthead light, and I think I can make out half of the cage where the oil lamp ships.

TWELFTH: To the twelfth interrogatory he saith:

On photograph S.1 I have marked the position of the oil lamp by a cross. On photograph S.2 I have marked the position of the light on the upper bridge by a cross, and I have marked the position of the screen on the lower bridge by a spearhead. On the photograph S.3 I indicate the light screen by the letter "Z", and I mark the line of the main rail "J". On the photograph S.4 I put a cross showing the position of the oil lamp.

I also mark the position of the electric light on the upper bridge by a dash. On the photograph S.5 I mark the position of the masthead light by a cross, and I mark the position of the electric light on the upper bridge by a spearhead, and the screen on the lower bridge by a dash.

THIRTEENTH: To the thirteenth interrogatory he saith:

Nine months.

FOURTEENTH: To the fourteenth interrogatory he saith:

About 38 feet.

FIFTEENTH: To the fifteenth interrogatory he saith:

A little over four feet.

SIXTEENTH: To the sixteenth interrogatory he saith:

The masthead light of the "Strathalbyn" gave a steady light from the time of leaving Tacoma until the point of the collision, and back to Tacoma.

SEVENTEENTH: To the seventeenth interrogatory he saith:

The masthead light of the "Strathalbyn" gave a steady light from the time of leaving Tacoma till the point of collision, and back again to Tacoma:

EIGHTEENTH: To the eighteenth interrogatory he saith:

The side light screens were attached to the woodwork of the lower bridge by means of screws through the fore and aft board of the screen.

NINETEENTH: To the nineteenth interrogatory he saith:

The side light screens were attached to the outside of the woodwork or bulwark of the lower bridge, as I said already, by means of screws through the fore and aft board of the screen. I should say the distance from the forward end of the screen to the fore end of the deck would be from six to eight inches, and the height above the deck would be about an inch and a half. The lamps were hung on an iron bracket fixed to the fore and aft board or side board of the screen. The bracket itself was such that there would be about an inch and a half clearance between the inside of the bracket and the side board of the screen. The thickness of the bracket would

be $\frac{5}{8}$ ths iron, and about an inch broad. There was a hole through the woodwork of the bulwark of the lower bridge and also through the inboard side of the side board of the screen directly behind the iron bracket. That hole was for the purpose of allowing a hand to be inserted to screw up the bolt in the lamp socket to secure the lamp in its place.

TWENTIETH: To the twentieth interrogatory he saith:

I have. I have already stated that I was present on several occasions when that measurement was taken, between the inside portion of the iron brackets—that is, between the port and starboard brackets, on two occasions at least at Esquimalt, and also in Australia. I was present when a measurement was taken in Esquimalt on 19th February, 1912, and in Sydney on 6th May, 1912. The distance as shown by those measurements was 46 feet 10 inches.

TWENTY-FIRST: To the twenty-first interrogatory he saith:

There had been no change in the distance between the time of the collision and the time of the measurements; there could be no change without an alteration of the structure.

TWENTY-SECOND: To the twenty-second interrogatory he saith:

I do.

TWENTY-THIRD: To the twenty-third interrogatory he saith:

47 feet 7 inches.

TWENTY-FOURTH: To the twenty-fourth interrogatory he saith:

As near as I can recollect, a Mr. Myers.

TWENTY-FIFTH: To the twenty-fifth interrogatory he saith:

I was present at all times during the time the cargo was being loaded both before the collision and after the collision. I superintended the stanchions being put in position, and after the reloading they were placed in the same position as they were before the collision. The stanchions, as shown in the photographs S.2, S.3 and S.5 are in the same position and they show the same ap-

pearance as the original stanchions that held the forward deck cargo.

TWENTY-SIXTH: To the twenty-sixth interrogatory he saith:

She had a similar list on both occasions.

TWENTY-SEVENTH: To the twenty-seventh interrogatory he saith:

7.10 p. m. on the 20th March, 1912.

THIRTY-FIFTH: To the thirty-fifth interrogatory he saith:

I should say the rays of light were not deflected as shown on this blue print.

CROSS INTERROGATORIES.

FIRST: To the first cross interrogatory he saith:

I was present during all the time the measurements were being taken at Esquimalt on the 19th February when the lawyers and the surveyors were present. The measurements were made by means of a tape line stretched across the deck. I held one end of the tape at all times, and Mr. Jack, Mr. Walker or the captain held the other end, I suppose, occasionally. Mr. Jack and Mr. Walker noted down all the measurements, and I also saw Mr. Hayden making a note or two.

SECOND: To the second cross-interrogatory he saith:

They were. I understand Mr. Jack and Mr. Walker were surveyors representing the "Virginian" and the "Strathalbyn", and they made this survey jointly. They were assisted by me.

THIRD: To the third cross interrogatory he saith:

The measurements were taken down by Mr. Jack and Mr. Walker, and I also saw Mr. Hayden taking some notes.

FOURTH: To the fourth cross interrogatory he saith:

They did, as near as I could see.

FIFTH: To the fifth cross interrogatory he saith:

Yes, they were.

SIXTH: To the sixth cross-interrogatory he saith:

I do not know anything at all about an agreement.

SEVENTH: To the seventh cross-interrogatory he saith:

I understood nothing at all about that.

EIGHTH: To the eighth cross-interrogatory he saith:

I know nothing at all about what the understanding was, and I know nothing about the blue print.

NINTH: To the ninth cross interrogatory he saith:

Yes; I understood he was representing the "Virginian" in the capacity of a surveyor.

TENTH: To the tenth cross interrogatory he saith:

Yes, he was present, and I understood he was representing the "Strathalbyn" as a surveyor.

ELEVENTH: To the eleventh cross interrogatory he saith:

No, I know nothing whatever about that.

TWELFTH: To the twelfth cross interrogatory he saith:

I had no conversation with either of the gentlemen referred to on that subject.

THIRTEENTH: To the thirteenth cross interrogatory he saith: No.

FOURTEENTH: To the fourteenth cross interrogatory he saith:

I have never seen the blue print, and I do not have a copy of it.

FIFTEENTH: To the fifteenth cross interrogatory he saith:

I made no notes at that time.

SIXTEENTH: To the sixteenth cross interrogatory he saith:

I made no notes.

SEVENTEENTH: To the seventeenth cross interrogatory he saith:

I got no information as to what they were taking the measurements for, and as I never saw the blue print I know nothing at all about it.

EIGHTEENTH: To the eighteenth cross interrogatory he saith:

I took those measurements personally at Tacoma and Esquimalt, at the request of Mr. Hayden and the captain.

NINETEENTH: To the nineteenth cross interrogatory he saith:

When I took the measurements at Tacoma the ship's carpenter was present, and when the measurement

was taken in the month of February at Esquimalt the captain was present. The captain was also present on the 6th of May when the measurement was taken in Sydney.

TWENTIETH: To the twentieth cross interrogatory he saith:

I was present.

TWENTY-FIRST: To the twenty-first cross-interrogatory he saith:

They did; I understood that Mr. Walker represented the "Virginian" and Mr. Jack represented the "Strathalbyn".

TWENTY-SECOND: To the twenty-second cross interrogatory he saith:

The measurements that they made were the distance between the chimneys, the distance between the blocks on the forward end of the screens, and the distance between the brackets on the screens. They also measured the height of the screen, and the breadth of the ship between the rails. Each and every measurement was examined and agreed to jointly by the surveyors.

TWENTY-THIRD: To the twenty-third cross interrogatory he saith:

I know nothing about that.

TWENTY-FOURTH: To the twenty-fourth cross interrogatory he saith:

I have never seen the blue print, and I do not have a copy; no one sent me a copy.

TWENTY-FIFTH: To the twenty-fifth cross interrogatory he saith:

No one ever spoke to me about the matter of a blue print.

TWENTY-SIXTH: To the twenty-sixth cross interrogatory he saith:

I should say approximately 48 feet 7.

TWENTY-SEVENTH: To the twenty-seventh cross interrogatory he saith:

At a point 6 feet forward of the superstructure I should say approximately 48 feet 5; at a point 18 feet forward of the superstructure I should say approximately 48 feet 2; at a point 30 feet forward of the super-

structure I should say approximately 47 feet 10; at a point 48 feet forward of the superstructure I should say approximately 47 feet 6, and at a point 63 feet forward of the superstructure I should say approximately 47 feet 4.

TWENTY-EIGHTH: To the twenty-eighth cross interrogatory he saith:

I did not take any measurements to enable me to answer that question.

TWENTY-NINTH: To the twenty-ninth cross interrogatory he saith:

The height is eight and a half inches, and breadth four and a half inches.

THIRTIETH: To the thirtieth cross interrogatory he saith:

I have taken no measurement to enable me to answer that question, and I do not recollect whether that measurement was taken by either Mr. Jack or Mr. Walker; the chart room bridge is just another name for the lower bridge deck.

THIRTY-FIRST: To the thirty-first cross interrogatory he saith:

I was present when the photographs were taken. They were taken on the 20th of March, 1912, at Tacoma. The name of the photographer was Mr. Hayden.

THIRTY-SECOND: To the thirty-second cross-interrogatory he saith:

With regard to photograph S.1, the photographer was standing on the forward end of the deck load about amidships, or a little on the port side, but I am unable to mark the position where he stood. In taking the photograph S.2 the photographer was on the forecastle head, leaning over the rails with the camera in his hand, which he pointed along the outside of the stanchions. I cannot mark his position on S.2. With regard to the photograph S.3, that photograph was taken on the lower bridge deck, the photographer standing directly behind the light screen. The camera was resting on the aft board of the light screen at a point equal to the width of the block on the fore end of the screen. I cannot mark the position of the photographer on that photograph either. The photograph S.4 was taken from a launch directly ahead of the steamer, and of course I cannot

mark the position of the photographer on the photograph. S.5 is another photograph taken from the same launch ahead of the steamer, only a little closer towards her. I cannot mark the position of the photographer.

THIRTY-THIRD: To the thirty-third cross interrogatory he saith:

I was present when those photographs were taken. I have already stated that I cannot mark the positions of the camera. In S.1 the camera was pointing aft; in S.2 the camera was pointing aft; in S.3 the camera was pointing forward; in S.4 the camera was pointing aft, and in S.5 the camera was pointing aft.

THIRTY-FOUR: To the thirty-fourth cross interrogatory he saith:

I now mark the letter "Y" on the photograph S.1 in a line with the electric masthead light.

THIRTY-FIFTH: To the thirty-fifth cross-interrogatory he saith: No.

THIRTY-SIXTH: To the thirty-sixth cross interrogatory he saith:

Yes; it is a fixture.

THIRTY-SEVENTH: To the thirty-seventh cross interrogatory he saith:

I have already given that measurement approximately, from my knowledge of the position of the screen. I made no measurement of that sort, and I have no recollection of anybody else doing so.

THIRTY-EIGHTH: To the thirty-eighth cross interrogatory he saith:

On the forecastlehead, and on the bridge.

THIRTY-NINTH: To the thirty-ninth cross interrogatory he saith:

I was in a position on the bridge to see the direct rays of the masthead light of the "Virginian".

FORTIETH: To the fortieth cross interrogatory he saith:

It was my duty, as officer on the watch, to see that the masthead light of the "Strathalbyn" was burning brightly. I saw it being hoisted into position, and from time to time after it was in position I saw it, and at all times it was burning brightly. Otherwise I did not examine it either before or after the collision.

FORTY-FIRST: To the forty-first cross interrogatory he saith:

I was on the bridge, and also on the forecastlehead. From the bridge I could see the rays of the light shining on the rigging and on the iron blocks and on the atmosphere.

FORTY-SECOND: To the forty-second cross interrogatory he saith:

The screens were built according to British Board of Trade regulations.

FORTY-THIRD: To the forty-third cross interrogatory he saith:

Yes, I was present when those measurements were made, and I understood that Messrs. Jack and Walker agreed to the measurements, but I have no knowledge as to whether they agreed to the notes of the measurements. The distance measured between the chimneys was 47 feet 7, and the distance between the outside edges of the blocks on the fore end of the screen was also 47 feet 7. The distance measured between the inside edges of the upright portion of the brackets was 46 feet 10, and the height of the screen was 8½ inches.

FORTY-FOURTH: To the forty-fourth cross interrogatory he saith:

I took those measurements myself on several occasions: at Tacoma on 18th January, 1912, when the carpenter was present; at Esquimalt some time prior to 19th February, and also on 19th February; and also on 6th May, at Sydney. I took notes or jottings of the measurements at the time, but when the surveyors found the same measurements at Esquimalt on 19th February I destroyed my notes.

FORTY-FIFTH: To the forty-fifth cross interrogatory he saith:

I answered that question in answer to cross interrogatory No. 43.

FORTY-SIXTH: To the forty-sixth cross interrogatory he saith:

The carpenter was present at Tacoma, and the captain was present at Sydney. The measurements were made at the request of Captain Crerar and Mr. Hayden.

FORTY-SEVENTH: To the forty-seventh cross interrogatory he saith:

I made no measurements.

FORTY-EIGHTH: To the forty-eighth cross interrogatory he saith:

I said in my last answer that I made no measurements, so that I cannot answer this question.

FORTY-NINTH: To the forty-ninth cross interrogatory he saith:

The first stanchion holding the deck cargo in position tumbled inboard, and from a point level with the light; the stanchion was inside the line of the light.

FIFTIETH: To the fiftieth cross interrogatory he saith:

As the same method of loading and reloading was adopted on both occasions, the stanchion must have been in the same position as it was prior to the collision, and it was so erected according to my observation.

FIFTY-FIRST: To the fifty-first cross interrogatory he saith:

Six degrees to starboard, as shown by the clinometer on the standard compass.

FIFTY-SECOND: To the fifty-second cross interrogatory he saith:

She had a similar list on both occasions, according to the clinometer on the standard compass.

FIFTY-THIRD: To the fifty-third cross interrogatory he saith:

23 feet 3 forward; 23 feet 5 aft; 23 feet 4 mean.

FIFTY-FOURTH: To the fifty-fourth cross interrogatory he saith:

I am unable to answer that question, as the cargo on the forward deck and the cargo on the after deck was not measured separately.

FIFTY-FIFTH: To the fifty-fifth cross interrogatory he saith:

I am unable to answer that question, for the reason already stated.

FIFTY-SIXTH: To the fifty-sixth cross interrogatory he saith:

I was on the forecandlehead on the night we left Tacoma, and was moving about in various positions on

the forecastlehead, until such time as I had the anchor secured. Before leaving the forecastlehead I looked over the rails on both sides and examined the lights, before going on the bridge, as is usually the practice on such occasions.

FIFTY-SEVENTH: To the fifty-seventh cross interrogatory he saith:

I am testifying from actual knowledge gained by observation on the night of the collision.

FIFTY-EIGHTH: To the fifty-eighth cross interrogatory he saith: I am.

FIFTY-NINTH: To the fifty-ninth cross interrogatory he saith:

Yes, the question was asked and answered as stated. Owing to the blocks on the forward end of the screen being parallel with the inside wick of the lamp a portion of the rays of light can be seen on the forecastlehead.

J. N. McCUNN, Commissioner.

(Filed Mar. 29, 1913.)

No. 1036.

TESTIMONY.

BE IT REMEMBERED, that pursuant to the order of Court herein, made on the day of January, A. D. 1912, whereby the above entitled cause was referred to me for the taking of testimony, and reporting the same to the Court,

Before me, Raymond J. McMillan, one of the United States Commissioners for the District Court of the United States for the Western District of Washington, Southern Division, at the City of Tacoma, County of Pierce and State of Washington, on the 25th day of anuary, A. D. 1912, personally appeared the parties hereto by their proctors:

Messrs. HUFFER, HAYDEN & HAMILTON,

Proctors for Libelant, and

Messrs. BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Respondent, and

Messrs. HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Claimant,

Together with the following named witnesses on behalf of the libelant: John H. Callan, George E.

Rich, James Clifford Eoff, F. P. McIntyre, John Daniel McLeod and Joe Miguel, who being by me first duly sworn were then and there severally interrogated by the proctors for the respective parties, and as will more fully appear from the written testimony hereto attached, said witnesses testified as hereinafter set forth, by questions and answers, as follows, to-wit:

STIPULATION.

MR. HUGHES: It is agreed that the signatures of the witnesses to their testimony may be waived, and the transcript of the evidence received without the witnesses signing.

MR. HAYDEN: That is satisfactory.

MR. JOHN H. CALLAN, a witness produced on behalf of the libelant, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

(By MR. HAYDEN.) Q. What is your name?

A. John H. Callan.

Q. How old are you, Mr. Callan? A. Forty.

Q. Where do you reside? A. Tacoma.

Q. What is your business?

A. I am connected with the Coast Coal Company.

Q. Were you on board the steamship "Strathalbyn" on the night of January 12th, 1912, when she was in collision with the "Virginian"?

A. Yes, I was.

Q. State in your own way what you did and what took place a few minutes before the collision, giving an account of the whistles blown and telegraphed to the engine room, if you heard any, and try and state what transpired?

A. I was in the chief engineer's room on the "Strathalbyn" and I heard three whistles at probably a period of a minute apart, and then I heard a bell in the engine room, one bell; then I started to go on deck and heard another whistle. I went out and went on the port side, to the port rail amidships, on the bridge deck, and I saw a steamer, or the lights, the starboard light and foremast light, coming down on

the "Strathalbyn," and then I heard the crash and she hit.

Q. What caused you to leave the engineer's room?

A. The whistles and the bell to stop.

Q. Now going from the engineer's room, what did you first do?

A. I looked down into the engine room, in the alley-way from the engineer's room to the deck to see if she was stopped.

Q. What did you find?

A. I did not hear the engines moving.

Q. Then what did you do?

A. I went on deck.

Q. What whistle was that which blew just before you left the engineer's room?

A. It was one blast. After I got on deck I heard,—in fact I had been on deck a minute or two when I heard the danger whistle, three or four quick blasts, when I was on the rail of the "Strathalbyn."

Q. Which one of these three or four passing signals you heard was the one which blew just before you left the engineer's room?

A. There was one and then the bells to stop, and then another.

Q. You left the engineer's room when with respect to the bell to stop?

A. I left when I heard the bell to stop, and almost right about the same time I heard another blast of the whistle.

Q. Have you ever been on the water or followed the sea at all? A. For six years.

Q. Do you know what the meaning of these blasts of the whistles is?

A. No, not particularly. I was not a navigator or an engineer. I was purser. I would not be sure of them.

Q. Were these blasts of the whistle, these separate distinct blasts which you heard about a minute apart, passing blasts?

A. I do not understand just what is meant by the question as to passing blasts.

MR. HUGHES: We will admit that the whistles heard by the witness were passing blasts.

MR. HAYDEN: How long were you on deck before these vessels came together?

A. I should judge two or three minutes.

Q. How long after you heard the danger signal from the Strathalbyn would you say it was before the Virginian struck her?

A. Well she was very close to her then.

Q. Could you make out the hull of the Virginian and her position from where you were standing?

A. In a general way. I did not make out the whole hull; I just looked at the forward part to see if she would hit.

Q. You were standing in what place on the Strathalbyn?

A. About midships on the port side, bridge deck.

Q. Forward or aft of the engine room house?

A. Aft.

Q. Of the engine room house?

A. I was about abreast of that. I came out that alley-way a little aft.

Q. Did you stand in that position until after the impact? A. Yes, sir.

Q. Could you see the bow of the Virginian strike the bow of the Strathalbyn? A. No, sir.

Q. Did you have occasion or did you in fact look at the lights on the Strathalbyn immediately after the collision? A. Yes, sir.

Q. What light did you look at? A. The port light.

Q. State please how soon after the collision it was and what you did with respect to it?

A. It was when the Flyer was standing by and hailed the Strathalbyn.

Q. What did you see?

A. I had a man with me who was going down to inspect the coal, and make a report on the coal that the ship was burning; it was our coal. He was with me on the chart room deck at this time and asked me about the lights on the Flyer, and where the corresponding lights on the Strathalbyn were, and I took him to the port side

of the chart room deck and showed him a port light burning, and the foremast head-light.

Q. How did that light appear to be burning?

A. It looked all right to me,—an ordinary red light.

Q. What did you do immediately after the collision?

A. I climbed the ladder and went on the mid-ship house to see if anybody was up there with the boat, and then I came right down on the port to the Captain's boat, or the deck where it is, and stayed there waiting for any instructions we might get, and help them get the boat out.

Q. Did the Virginian seem to be moving rapidly through the water at the time of the collision, or otherwise?

A. Well she appeared to be moving rapidly to me.

Q. How long before the Virginian struck the Strathalbyn did the Virginian's danger signals blow, if you heard them? A. I did not hear them.

Q. You did not hear any whistles at all from the Virginian?

A. Not while I was on deck, and I did not hear any while I was in the chief engineer's room.

CROSS-EXAMINATION (BY MR. HUGHES.)

Q. How many single blasts of the whistle did you say you heard while you were in the engine room before you came out on deck? A. Four.

Q. Four single blasts of the Strathalbyn's whistle?

A. Yes.

Q. Did you hear any other blasts from any other ship while you were in the engine room? A. No.

Q. You did not hear any blasts from the Flyer?

A. No sir.

Q. And it was immediately after the fourth blast that you heard that the bell sounded for stopping the engine? A. No sir.

Q. When was that?

A. Between the third and fourth blast.

Q. As soon as the bell for stopping the engine sounded, you started out of the engine room?

A. I started out of the chief engineer's room.

Q. And you think before you got out the next single blast was sounded, making the fourth? A. Yes, sir.

Q. In other words that blast was sounded before you got out on deck? A. Yes.

Q. After you got out on deck did you hear any other single blast from the Strathalbyn whistle? A. No, sir.

Q. The first blast you heard from her after you got on deck was the four blasts in quick succession that you speak of? A. Yes, sir.

Q. About how long was it after the last blast you heard in the engine room before you heard these four blasts?

A. I should judge it was about two minutes, or three.

Q. As I understand, when you got out of the engineer's room on the port side, you saw the lights of the steamer ahead? A. No, sir, not ahead.

Q. Well ahead and on your port bow?

A. I saw the green light, the starboard light and foremast head-light.

Q. You saw a green light and head-light of the vessel ahead of you? A. She was not ahead of us.

Q. Well not in ship parlance,—(interrupted).

A. She would be off on the port bow, in ship parlance.

Q. How much off your port bow; what I mean, she was in front of you in the water but you think off your port bow? A. She was off our port bow.

Q. About how much?

A. Well I don't know; I watched her closely.

Q. But could you state how much she appeared to be off your port bow?

A. Yes, four or five hundred feet or more. I couldn't judge distances on the water at night.

Q. Would you know how many points?

A. I know nothing about points.

Q. Could you see the bow of your own ship?

A. No.

Q. Why not?

A. Because I did not look at it. My attention was naturally watching the ship which I thought would collide with us.

Q. Well, was the deck that you were standing on the one on which she had her forward cargo of lumber?

A. No, sir.

Q. Which deck was it?

A. I was on the bridge deck that runs amidships; it is the middle deck.

Q. You were on the lower bridge deck below the flying bridge? A. Yes.

Q. On the chart room deck?

A. No, the deck below the chart room deck.

Q. Is the chart room on the same level as the flying bridge? A. No, sir.

Q. Then you were not on the same deck with the lower bridge?

A. Well they call it the bridge deck I think. It is the deck that you would naturally get in coming aboard the ship. It would be the promenade deck on a passenger ship.

Q. That is below the bridge deck?

A. Well I do not know what they call it on that ship. I call it the chart room deck because the chart room is there.

Q. And in front of the chart room there is a bridge, and above that there is another bridge?

A. That is what you call the flying bridge.

Q. How much was this deck above the forward deck on which the cargo of lumber was; that is the deck on which you stood when you came from the engineer's room?

A. I do not know. I was aft. That was nearly the back end of this deck.

Q. But by looking ahead you would look up against the lumber cargo?

A. Well I do not remember anything about that. I know there was cargo but I don't know where it reached.

Q. You say you could not see the actual collision from where you were?

A. I could not see the bow of the Virginian from where I was, to tell where it hit the Strathalbyn, but I saw the ships come together.

Q. But you did not see the bows come together?

A. No, I could not tell from where I was standing whether she hit ten or twenty or fifty feet from our bow.

Q. You could not see the actual place of the collision on account of this cargo of lumber?

A. No, it was not on that account; I was not looking that way, I was looking over the rail.

Q. You did not see more than one mast-head light on the Virginian?

A. That is all that I noticed. My attention was right on the bow or the fore-part of the Virginian.

Q. Didn't you hear the Virginian give three blasts of the whistle in answer to the four blasts you have mentioned from the Strathalbyn?

A. I did not hear them; I was inside.

Q. Did your ship appear to be swinging?

A. She appeared to be stopped, to me.

Q. Did she appear to be swinging on the helm,—turning? A. I did not notice it.

Q. What is your best judgment as to the angle of these two ships at the time of the collision?

A. Do you mean,—I don't quite understand.

Q. Were they coming end on or were they approaching each other and colliding at an angle? A. Yes.

Q. How much of an angle?

A. Almost right angles.

Q. Now coming back again,—as to these blasts you heard in the engine room, what would you say was the space of time between them?

A. I would judge about a minute apart.

Q. And then after you were out on deck you thought you were there a couple of minutes before you heard the danger signal?

A. It seemed that long to me.

Q. And about how long after that until the collision appeared to you to take place?

A. Almost at the same time; very closely.

Q. Very quickly afterward? A. Yes, sir.

Q. Afterwards you say you went up on the deck above; the chart room deck?

A. At first I went on the house that the engineer's room is in; I climbed up that ladder and looked to see if anybody was coming up.

Q. What deck is that?

A. That is not a deck, but on top of the house on the bridge deck.

Q. That is the same deck the small boats are swung from?

A. Yes, sir. Then I came right down and went forward and went on the chart room deck.

Q. Which would be on the same level?

A. Yes, but on a different house.

Q. But about the same level. A. Yes, sir.

Q. On which side of you was it the Flyer came up?

A. When I saw her she was on our starboard.

Q. But you went over to the port side? A. Yes.

Q. And you speak of calling a gentleman's attention to the light,—looking at the port light? A. Yes, sir.

Q. Where was that light from where you were standing?

A. It was only about, perhaps, five or six feet from where I was standing.

Q. And just where?

A. It was on the,—we walked right over this deck and looked over the side.

Q. And it was a little below the deck you were on?

A. It was on the foot of the deck.

Q. Was it on the level of the deck, with the floor?

A. Well, I don't remember, from where I was you could see it.

Q. Where was it with reference to the lower bridge?

A. What do you mean by the lower bridge?

Q. The bridge immediately under the flying bridge, in front of the chart room.

A. The chart room deck?

Q. Yes, the bridge or deck that runs in front of the chart room across and immediately under the flying bridge; was it directly under the flying bridge?

A. I do not know. I was not looking at the flying bridge. It was on the port side, of course, of the deck, well up and forward.

Q. You mean that it was on the port side to the front of the chart room deck you speak of? A. Yes, sir.

Q. That would bring it under the flying bridge, or approximately so? A. I can't say that; I don't know.

Q. Where were you standing when you saw the port light? A. On the chart room deck.

Q. And whereabouts on that deck?

A. On the port side, well forward, on the chart room deck.

Q. Were you by the side of the chart house?

A. No, sir.

Q. In front of the chart house?

A. I was over to the left or port side of the chart house.

Q. Did you at any time go out on the forward deck of ship where the lumber cargo was? A. No, sir.

Q. At what time did you board that ship?

A. I think about 5 o'clock in the afternoon.

Q. Was it dark? A. No, sir.

Q. Did you observe the forward cargo.

A. Not particularly.

Q. You paid no attention to it?

A. I noticed it was there; it did not interest me any.

Q. Going back to this light; from where you stood, did you have to lean over or look down to see it?

A. I had to look down; I don't remember whether I leaned over. It was naturally below me.

Q. Below your feet? A. I could not say.

Q. Where were you when you saw the mast-head light? A. Which mast-head light?

Q. I thought you said you saw a mast-head light on your Strathalbyn? A. Yes, sir.

Q. Where were you then?

A. On this same deck.

Q. At the same place where you saw the port light?

A. I don't know as I was in identically the same place, because I was looking over the port rail and could not say.

Q. But where were you standing when you looked at the mast-head light?

A. On the chart room deck, but it was not at the same time I was looking at the port light.

Q. But as to the place you were when you were looking at the mast-head light?

A. All I can say, I was somewhere on the port side of the chart room deck. I was around the deck all over the port side.

Q. Where was this mast-head light?

A. It was on the foremast of the Strathalbyn.

Q. How high on the foremast?

A. It was not at the top of it, but where they usually are, where the stays come up; it was in the box.

Q. Did you see a box there? A. Yes, sir.

Q. Were you behind it? A. No, sir.

Q. Was it in front of you, that is this mast on which it stood? A. Yes, sir.

Q. How far in front of where you were standing?

A. I do not know.

Q. Have you any idea?

A. I do not remember; I did not gauge it; I took no interest in it.

Q. The light was above and in front of you?

A. Yes, sir.

Q. Was it suspended below the crosstrees on the masthead? A. I do not know.

Q. Did you see the crosstrees? A. No, sir.

Q. Now you observed the flying bridge where the officers are in navigating the ship, when you were on the port side?

A. I may have observed; I know it was there.

Q. When you looked up at the masthead light, were you behind and back of that flying bridge?

A. I was in the forward part, on the port side of the chart room deck, not on the bridge. The bridge was above me; it was there, but I did not observe it.

Q. But did you look over that bridge to the light, or were you behind it so as to look over?

A. I was not on the same level with it.

Q. It was above you one deck? A. Yes, sir.

Q. It would obstruct your view of any light above unless you stood either behind it or in front of it?

A. If I stood well forward on the chart room deck I could see it.

Q. Did you see?

A. You mean the light or the bridge?

Q. Did you stand well forward on the chart room deck? A. Yes, on the port side.

Q. So that you saw under the bridge looking up past the bridge, beneath it, forward to the bow in front?

A. I don't quite understand.

Q. I want to get at where you stood on the chart room deck.

A. I stood on the port side well forward on the chart room deck.

Q. How near the front of the chart room deck?

A. I could not tell you exactly.

Q. Have you any idea?

A. No; I was well forward.

Q. Was it ten or fifteen feet back from the front of the deck?

A. No, not so far as that; it might have been two or four feet, or it might have been a foot.

(Witness excused.)

MR. GEORGE E. RICH, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name?

A. George E. Rich.

Q. Where do you live?

A. My home is in Port Angeles.

Q. Where are you living now?

A. In the City of Tacoma.

Q. How old are you? A. Twenty-one.

Q. What were you doing on the night the Strathalbyn and the Virginian came into collision?

A. I had been up-town and had come down sometime before eight o'clock to the Foss Boat House.

Q. That is located where?

A. Below the Commercial Dock here.

Q. When you got there, what happened?

A. I sat around awhile and I heard there was a collision out at Robinson's Point and that it was the Virginian and the Strathalbyn. Some man came down to go out and did not get out right away, stayed around

there, and the Virginian came in, and I went over to the Eureka Dock and saw her.

Q. Did you go in a launch or on foot?

A. On foot, just a few steps. Then came back, and about 11 o'clock we went to the Strathalbyn in launch Number 10, belonging to Foss.

Q. What position did you have aboard the launch?

A. Then I did not have a boat of my own. I had the head end that night; that is at the wheel.

Q. When you went out to the Strathalbyn, where did you first pick her up?

A. Just this side of Robinson's Point a little.

Q. Where were you when you first saw her?

A. A little the other side of Dash Point.

Q. The Strathalbyn was a little bit south of Robinson Point and you were a little south of Dash Point?

A. No, we were on the other side of Dash Point, a little north.

Q. What did you see?

A. I saw a red light first, and I said "there is the Robinson light." Before that I said I thought we would chase her pretty near to Seattle before finding her. At first I only saw one red light burning very bright; I thought it was the Robinson light. Then I saw the masthead light as she swung around. She just came off the beach then.

Q. The masthead light was considerably higher was it than the red light? A. Yes it was.

Q. Tell what lights you saw as you approached the Strathalbyn?

A. When we were about three-fourths, or a mile away, we saw the three lights.

Q. What lights?

A. The green, red and masthead light.

Q. You saw them all three at one time?

A. All three at once.

Q. Did you observe whether or not you could see the lights directly ahead of the Strathalbyn? A. Yes

Q. Could you? A. I could.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. How did you come to go down to the dock that night?

A. I wanted to see what she looked like; how she was damaged.

Q. How did you come to be downtown; just loafing?

A. No; when do you mean.

Q. When you heard about the collision?

A. I came up-town to get some tobacco, and went down to the boat-house when I heard it.

Q. Were you on duty that night? A. I was.

Q. You were working for Foss? A. Yes, sir.

Q. On a little gasoline boat? A. Gasoline.

Q. Did you take anybody out with you?

A. We took two men.

Q. Who were they?

A. One was a reporter, I believe, and I do not know the other party. I put the reporter aboard the Strathalbyn.

Q. Were you hired to take anybody out?

A. Some man came down for a launch and I went out.

Q. Then you were hired to take somebody out?

A. Yes, the launch was hired.

Q. And that is why you went out?

A. That is why I went out, yes.

Q. Don't you know who the other man was?

A. I do not.

Q. Who employed your boat to take them out?

A. I do not know. It was this other man. The reporter went along when he found a launch was going out.

Q. Did you see any lights from the forecastle head as you approached the Strathalbyn?

A. We saw a few lights in the port holes on the port side.

Q. How many did you see?

A. Two, I believe, or three.

Q. Did you see them before you saw the others?

A. No, they were very dim.

Q. How near did you get to the ship before you saw them?

A. Right up to where I could see her hull plain.

Q. Were you running the launch?

A. I was on the head end, at the wheel.

Q. Steering? A. Steering.

Q. The red and green light you saw, how did they appear; were they level with each other? A. No.

Q. They were not level with each other? A. No.

Q. How much difference?

A. The green light was considerably lower than the red on account of the list.

Q. There was a list in her was there? A. Yes, sir.

Q. And how much lower?

A. I would say about fifteen or twenty feet, I should judge.

Q. How would you know then that they were side lights, if there was such a difference?

A. I knew she was listed.

Q. You had seen her before?

A. I saw her when she was in the stream, before she went out, in the afternoon, lying off—about the river.

Q. Did she appear to be listed as much as that?

A. No, not so much.

Q. Did you see any other light except the mast-head light up in her masts, or anywhere, on any deck?

A. No, sir; I did not.

Q. Did she have a pretty heavy cargo of lumber in front?

A. Well I do not know as it was heavier in front than it was aft.

Q. Well she had a pretty high cargo in front?

A. It was not so high, but the sticks were high.

Q. That is the stanchions that held it?

A. Yes, considerably higher than the lumber.

Q. After seeing any of the lights, did you lose them again?

A. We lost the green one as we passed the port of her, after we came nearer her port.

Q. Did you sometimes lose them in the meantime?

A. I was not always looking.

Q. You were not paying especial attention to it?

A. No.

(Witness excused.)

MR. JAMES CLIFFORD EOFF, a witness called and sworn in behalf of the libelant, testifies as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. James Clifford Eoff.

Q. Where is your home?

A. My home is in Salem, Oregon.

Q. Where are you living now?

A. I reside in Tacoma now. I work for the Foss Launch Company.

Q. Were you working for the Foss Launch Company on the night that the Virginian and the Strathalbyn had a collision? A. Yes, sir.

Q. Did you go out in a launch towards the Strathalbyn after you heard that they had been in collision?

A. Yes, sir.

Q. Tell what you did that night after you heard of the collision.

A. I was on the night run that night; I was running back and forth to the Milwaukee dock, and I made a trip about 10:20, took the customs over, and brought the watchman back. In the meantime there was a reporter came down and wanted to go out, but did not have any boat, because I could not get away until after 11 o'clock. So when I got through with the customs after 11 o'clock I came in and there were two men down there to go out. But the reporter had come back up town and did not go out. I don't know the man's name who went out, who chartered the boat. We started out about a quarter after 11, I think, somewhere around there.

Q. Now where did you first pick up the Strathalbyn?

A. I would not say for sure, because I was back by the engine and was not paying much attention. I thought she was off Dash Point, but found out it was further. I thought it was Dash Point when we picked her up.

Q. What did you see in regard to her lights; did you pick her up by her lights? A. Yes.

Q. What lights did you see?

A. I saw the red light first, and the head light, the headmast light.

Q. Describe the lights you saw at any time on that trip over; where was the Strathalbyn when you saw those lights?

A. I don't know exactly. I was not paying any attention to that. I was not at the wheel, and I could not say just where she was. I thought it was off Dash Point but they say it was further, but I was not paying any attention.

Q. Did you see any other lights but the red light?

A. I saw the green light when we got close. It was harder to see the green light at that time because she had such a list, but we could see it after we approached and got closer.

Q. Did you see all the lights at one time, together?

A. Yes, sir.

Q. Could you see the lights directly ahead?

A. Yes, directly ahead; I did not see the green light when we first came head on, but as we got closer I could see it. Of course she had such a list and it was harder to see than the port light.

Q. Could you make out the hull of the Strathalbyn any considerable distance away that night?

A. Yes you could by the lights; the head light and head mast light and the red light.

Q. Could you make out her outline of the hull without the lights?

A. Well no, not any distance away.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. It was a pretty dark night?

A. It was dark; just ordinary; it was not moonlight.

Q. On which side did you land your passengers on the Strathalbyn? A. We put them on the port side.

Q. Then you went up to her on the port side?

A. Yes, sir.

Q. Was she coming towards you?

A. Yes; well, we turned around and went by and came up with her.

Q. You went by on which side?

A. On the port side and turned around and came up with her to land the passengers.

Q. You went around by and came up along the same side, the port side? A. Yes, sir.

Q. And how fast was she going through the water?

A. Oh, probably going—I don't think she was making over five miles an hour or six at that time.

Q. How fast is your boat?

A. Between seven and eight miles I think.

Q. At what time did you get out to the Strathalbyn?

A. I don't know exactly what time it was, somewhere around 12 or a quarter past.

Q. You were busy with your engine and did not pay any especial attention?

A. Well, when we were landing I was, but I was looking out. Of course I was not in the front end of the boat.

Q. You did not have any occasion to pay any special attention until you were getting close enough to plan how you would get alongside to put off your passengers?

A. Yes, sir.

Q. That is the only time when you had occasion to pay any especial attention?

A. All I had to do was to stand by the engine.

Q. You don't know who those passengers were?

A. Well, one was the agent.

Q. What is his name?

A. I could not tell you that.

Q. Who was the other?

A. He was a fellow who works under the agent. He does the loading of the cargo, the lumber.

Q. You don't know the names of either?

A. No. I have had them on the boat several times.

Q. Have you talked to them since about this matter?

A. No.

Q. Not at all?

A. No, sir, I have not talked to them at all.

Q. Have you talked to anybody since?

A. No, sir.

Q. You have not had any conversation with anybody since that time about what you saw that night?

A. No, I have not.

MR. HAYDEN: This is all objected to as immaterial.

Q. Did you tell anybody what you have testified to?

A. No, sir.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. The launch you were on has kind of a sliding door on the house, hasn't it, near the engine room?

A. Yes, sir.

Q. And that is where you saw the vessel from?

A. Yes, sir.

Q. You stood up in the sliding door-way and looked forward? A. Yes, sir.

MR. HUGHES: Do you know what course you steered from Tacoma?

A. Northwest by west, to Browns Point.

Q. Did you have a compass?

A. Yes, sir, but it was not really dark enough to steer by the compass.

Q. What course did you steer after leaving Browns Point?

MR. HAYDEN: That is objected to as not proper cross examination.

A. About due north,—Dash Point to Robinson Point.

Q. But what course did you steer?

A. I don't know, I was not steering; he was steering.

Q. You do not know what course your boat went?

A. No, but it was somewhere around there; I could not tell that.

(Witness excused.)

MR. F. P. McINTYRE, a witness produced on behalf of the libellant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. F. P. McIntyre.

Q. How old are you? A. Thirty-nine.

Q. Where do you reside? A. Tacoma.

Q. You were a passenger on the steamer *Flyer* on the night the *Strathalbyn* and the *Virginian* came together? A. Yes, sir, I was.

Q. State in your own way what you saw that night with respect to this collision or heard?

A. We left Seattle at seven o'clock and the *Flyer* blew one whistle to the *Virginian* and passed her about three hundred feet, I would judge; I was inside and walked to the door and looked out. I was on the starboard side of the *Flyer* just by the door forward of the stack, right abreast of the stack. I went back and took my seat again and the next I heard was the *Flyer's* one whistle and I walked across to the port side again and went outside, and just as I got outside I heard another steamer blow one whistle; that was off our port bow; at that time she was quite a little ahead and I would judge about one thousand to twelve hundred feet away; you could see her headlight and her port side light, and I stood there and watched her until she got just past our stern; we had passed her and she blew one more whistle. I went inside then, slammed the door, as the door don't shut easy, and walked over to the starboard side to get my overcoat, and just as I got there I heard the danger signal sounded from another steamer. I immediately rushed to the port side and went out and had not been out more than fifteen seconds before the two vessels came together, and I saw the sparks fly like from an emery wheel grinding steel, and a dull thud like blasting of a stump. At that time the gong of the *Flyer* rang and the helm went over,—I could not tell which side but I could hear the wheels work the rope in the pulleys. I went inside and got my coat and came out, and by that time the vessel had come around and you could see the lights altogether. I went up on the deck in front of the pilot house, and came around, and we approached the two vessels as they still seemed to be together at that time, and Captain Burns went up and asked them while they were both together if he could be of any assistance. He could not hear very well and the *Virginian* backed away and went around, and at the same time the *Strathalbyn* came ahead around and we were standing at the bow.

Captain Burns went up ahead on to the Virginian starboard side and asked them if they needed assistance, and he told them no, he was all right, but to see how about the other boat. Burns went ahead alongside the other vessel about three hundred feet, and Captain Burns asked them if they needed assistance, and the reply was that she was not making any water, to report him in Tacoma, that he was coming back to Tacoma, and also said at the time, "What the hell was he trying to do."

Q. Who said that?

A. It sounded like Herbert F. Beecher's voice to me. So, when we approached the Virginian, there was a bright light from her starboard side; you could see the hull of the vessel; as we went alongside the Strathalbyn you could see her hull and cargo, and you could see she had considerable list to starboard, and was down by the head. There was a bright light from the bow of the Virginian and looking at the damage one passenger made the remark that you could see right through her inside.

Q. When you swung around these boats and came up, you say they appeared to be together; on what side did you approach the Strathalbyn?

A. On the starboard side.

Q. Did you ever go around to the port side of her again after the collision? A. No sir, we did not.

Q. When you saw the Strathalbyn approaching the Flyer after you heard her first whistle, could you make out her hull?

A. You could not make out her hull, but you could see in the darkness,—it was very dark, but extremely clear,—it looked like a head land. You could see a big, black loom like a sail on a sailing ship.

Q. You say that was probably one thousand to twelve hundred feet away?

A. I think one thousand or twelve hundred feet.

Q. That is the distance you saw her?

A. Yes, and by my watch when they struck it was exactly five minutes after eight. I pulled my watch out and looked.

Q. How did the port light appear to be burning when you passed?

A. I could not tell how it was burning, but it was an ordinary bright red light.

Q. How was the head light?

A. It was simply a bright light; the same as any other ordinary bright light.

Q. Did you watch the vessels after the Flyer had started to Tacoma, any distance? A. Yes, sir.

Q. Could you see the Strathalbyn's headlight as you drew away? A. Yes, sir.

Q. And her starboard light?

A. Her starboard light, yes.

Q. How far away would you say you could see the headlight of the Strathalbyn?

A. I should judge I stood there talking to Captain Burns on the port side of the Flyer under his window in the pilot house, and I watched it possibly for,—I could not say how far, but I talked to him about ten minutes, and you could see it all that time, and I remarked to Captain Burns that I did not see how it would be possible for two vessels with all their lights intact as those were,—because I particularly noticed the lights of the Virginian after the collision,—could have collided. I said I did not see how it was possible.

MR. HUGHES: We object to the conversation with the Captain and move to strike.

Q. Did you hear any whistles that you distinguished as coming from the Virginian?

A. I did not; I was inside when the other signals were blown on the other vessel.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. What is your business?

A. I am representing Sims & Levy in Tacoma, the Sailor's Home.

Q. You are the agent of their Sailor's Home in Tacoma? A. Yes, sir.

Q. How long have you been here?

A. I have been in Tacoma since September a year ago.

Q. Prior to that where were you?

A. Port Townsend.

Q. And you lived at Port Townsend a long time, have you? A. Yes, sir.

Q. You were inside the Flyer when she passed the Virginian? A. Yes, sir.

Q. Did you observe the Virginian as you passed?

A. Yes, sir.

Q. You saw her lights through the window?

A. Yes.

Q. You were in the main passenger room of the Flyer? A. Yes.

Q. It is brilliantly lighted in there isn't it?

A. Yes, sir.

Q. And looking out of those windows from that brilliantly lighted room, you saw the Virginian and saw how far she was away when you passed?

A. I saw the light at about three hundred feet I would judge, because we were quite close.

Q. On which side? A. On the starboard side.

Q. How long after that did you go outside?

A. I should judge about three minutes.

Q. What did you go out for?

A. I went to look out through the window when we passed, and when the Flyer sounded one blast again I walked over again and went out the door as we generally do coming across on those boats, and I looked ahead and on the port side, and saw this red light.

Q. That was ahead of you?

A. It was coming ahead on the port bow.

Q. Did you hear the Flyer give a whistle about the time you saw the Virginian in passing?

A. The Flyer whistled just before then.

Q. Did you hear the whistle from the Virginian in answer. A. I did not.

Q. Now about three minutes after that, you think you heard the Flyer give another whistle? A. Yes.

Q. Did you hear a whistle from any other ship?

A. I did not.

Q. Was that the reason you went out, because she blew a whistle?

A. Well, yes, because the Flyer had been blowing her whistle.

Q. How did you know on which side to go?

A. Because I knew it was one whistle.

Q. And you distinguished that whistle, and that is why you went out on the port side? A. Yes, sir.

Q. You were sitting on the starboard side?

A. I was sitting on the starboard side.

Q. And after you got out there, did you hear this other vessel to which the Flyer whistled give an answer?

A. Yes, sir.

Q. You heard her answer the Flyer?

A. I heard one whistle from her; I supposed it was in answer to the Flyer as she had blown one whistle previous to that time.

Q. And it was how far ahead of you?

A. I could not say exactly, but she was on our port bow, a distance I would judge from one thousand to twelve hundred feet.

Q. You thought about the proper position to be answering the Flyer's whistle? A. Yes, sir.

Q. Did you notice the Virginian at that time?

A. I did not.

Q. You did not look back at all?

A. Not at that time, no, sir.

Q. Did you stand right at the door where you went out. A. I stood right abreast the door.

Q. Just looked ahead?

A. No, I watched the other vessel.

Q. How long?

A. Until she got right off our port quarter, and then she blew one more whistle.

Q. Did you look back toward the Virginian then?

A. I could see the other vessel approaching. I could see the head light, but the Strathalbyn was the one I had been watching, and when she blew that whistle, then I went inside.

Q. When she blew this last whistle you mentioned, you supposed she was blowing to the Virginian did you; you knew she was not blowing to you?

A. I certainly knew that.

Q. Did you observe the Virginian's lights?

A. I turned around and went inside again.

Q. The question was, did you observe the Virginian's light at the time? A. I did not, no, sir.

Q. Did you observe it at all while you were outside?

A. I did not.

Q. You did not notice the Virginian at all?

A. No, sir.

Q. How long do you think it was that you were outside. A. I would judge about two minutes.

Q. And during that time you had heard two blasts of the Strathalbyn's whistle? A. Yes, sir.

Q. And she had got off your port quarter by that time? A. Yes, sir.

Q. That is to say she was probably how many points back of you?

A. Well, I was standing about midships and the vessel had just passed, just off the port quarter.

Q. You could not see her stern so as to tell whether the Strathalbyn was abreast of you? A. No, sir.

Q. You saw her headlight? A. Yes, approaching.

Q. Did you see it when she blew this last whistle?

A. I did not, no, sir.

Q. You could not see her at all then when she blew the last whistle?

A. You could see the loom of the vessel in the dark.

Q. Could you see anything else?

A. I did not, no, sir.

Q. How long were you inside, did you sit down?

A. After she blew that and after I went inside I had time to walk across the cabin to my coat. I heard the danger signal and immediately went back right across and out the same door, and had been outside fifteen seconds,—I looked straight aft and it was not fifteen seconds before they came together.

Q. Did you see any lights before they came together? A. No, sir, none except the sparks.

Q. No lights except the sparks?

A. That is all I saw.

Q. You stood there at the same door?

A. The same door, yes, sir.

Q. Now when you went back to the Strathalbyn, as you approached her, did you see any lights?

A. Yes, we could see the starboard green light.

Q. I understood you awhile ago to say that after

you had gone to the Virginian and came back, you saw the starboard light? A. Yes.

Q. And you also saw it as you approached?

A. When we went up head-on to the Virginian, and the Strathalbyn this way (indicating), we could see the Strathalbyn's light.

Q. Were you approaching the Strathalbyn pretty nearly abeam? A. It seemed that way, yes, sir.

Q. And the Virginian was on the other side of her, in the direction of Seattle? A. Yes.

Q. So until you got pretty well past the Strathalbyn you could not see?

A. We did not go past the Strathalbyn. We went up head-on to the Strathalbyn, and the Virginian backed off this way and came ahead.

Q. Didn't you go on from the Strathalbyn some distance to speak to the Virginian?

A. No, sir. The Strathalbyn was lying this way (indicating) and we went around her bow and came up alongside, and as we did that the Virginian came up the same way, and we went head-on to the Virginian.

Q. You did go then some distance to the Virginian to speak to her? A. Yes, sir.

Q. And of course in the darkness you could tell the directions, could you?

A. No, sir, I could not; but I could tell the positions of the vessels as to bow and stern.

Q. How much was she on your port bow; how many points of the compass; that is the Strathalbyn, when you first saw her? A. I would not attempt to say.

Q. Do you know the points of the compass?

A. Yes, sir.

Q. You haven't any idea how much she was on your port bow?

A. I did not pay particular attention to how far she was on our port bow.

Q. Did she seem pretty well ahead?

A. She was about one thousand feet.

Q. I did not mean to ask the distance, but as to the points of the compass. Did she seem pretty much ahead or pretty well off your port bow?

A. She was well off on the port bow.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You said you could distinguish the vessels as they were lying together. About what was the angle that the Strathalbyn and the Virginian were lying as respects each other when the Flyer came up, before they had apparently separated?

A. I should say at an angle like this (illustrating). That is the way it seemed as we approached up this way.

Q. You approached about abeam, across up towards the bow of the Strathalbyn. A. Yes, sir.

Q. And the angle you have illustrated there is a little less than forty-five degrees?

A. That is the way it appeared to me.

MR. HUGHES: I think that is considerably more than forty-five degrees. It looks to me more like sixty.

Q. (By Mr. Hughes) It was pretty near at right angles, as you have shown there?

A. I would not attempt to say, but that is the way they appeared.

(BY MR. HAYDEN.)

Q. Lay them on this paper about the way you think they were? A. Like this. (Indicating.)

Q. Now please hold them and I will draw lines along the sides of them? A. Yes, sir.

(Sketch.)

Q. The arrow heads represent the bows of the vessels? A. Yes, sir.

Q. Will you write which was the Strathalbyn?

A. This was the Strathalbyn, "SA."

Q. And the other,—

A. The Virginian. (Indicating by name.)

Q. Please write your name down here.

A. Yes, sir. (Writes.)

(WHEREUPON said paper sketch was marked Exhibit A for libellant.)

Q. I think I asked you if you could distinguish the loom or load of lumber, or hull of the Strathalbyn, for any distance?

A. When coming back to Tacoma, and went along side, the last time Mr. Burns asked them if we could assist, we were distant about three hundred feet, and we

could distinguish the deck load from the hull, and saw she had a heavy list starboard and down by the head.

Q. What distance would you say you could make out her loom on the night in question?

A. I would not attempt to say what distance I could make it out, but I made it out at about one thousand feet I would judge.

(BY MR. HUGHES.)

Q. When the *Flyer* approached the *Strathalbyn* after the collision, was the *Strathalbyn* swinging?

A. I could not tell whether she was at the time we approached, but shortly after when I was standing on the upper deck with Captain Burns, both vessels seemed to be standing at a stand-still at that time. Shortly after that, in the space of two minutes, the *Virginian* seemed to swing and come outside, and then Captain Burns spoke to the *Strathalbyn* again and asked if they needed assistance, and he could not quite distinguish the answer, and she also came ahead around her bow and then Captain Burns went ahead a little up to the *Virginian*.

Q. And when you say he went ahead, you mean his boat proceeded ahead first and he was not backing; you did not mean to say in what direction he went?

A. Oh, no; he went ahead.

Q. What I mean to ask was whether when the *Flyer* turned around and started back toward the *Strathalbyn*,—you have already said she was approached broad-side,—you saw lights, and from what you saw of the lights did they seem to be changing position?

A. They did not.

Q. She did not appear to be swinging?

A. No, sir, did not appear to be swinging to me.

Q. Do you think you would be able to tell?

A. I could not draw my imaginative powers that far, as to whether I could be able to tell.

Q. Did you ever have any experience in seafaring?

A. Yes, sir.

Q. In running steamships?

A. I have been at sea a good deal; I never ran steamships. My father,—

Q. We do not care about that; that does not mean anything here.

A. It means a good deal to me; my father was a master on sailing and steam vessels a great many years, and I was with him a great deal.

(Witness excused.)

MR. JOHN DANIEL McLEOD, a witness produced on behalf of the libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your full name? A. John Daniel McLeod.

Q. You were third mate on the Virginian, on the night of this collision? A. Yes, sir.

Q. On watch? A. Yes, sir.

Q. On the bridge? A. On the bridge.

Q. You are the same John D. McLeod who testified before the United States Inspectors in Seattle, on January 17th of this year? A. Yes, sir.

Q. Did you see any lights at all on the Strathalbyn before the collision? A. I saw a white light.

Q. Masthead light?

A. I suppose it was; it was elevated. I could not see the hull of the ship.

Q. Just answer the questions. I move to strike that. Did you see her red light, that is the Strathalbyn's red light just after you came into collision?

A. Just after, yes.

Q. That is all.

MR. HUGHES: As this witness is our third officer, and we will expect to call him, we will not avail ourselves of the ordinary rights of cross examination, but will expect to examine the witness as our witness at the proper time. However, at this time I will ask him a couple of questions as bearing directly upon the testimony here given.

Q. When with reference to the collision did you see the white light on the Strathalbyn, or the vessel ahead, which you have spoken of?

A. We were just on top of her almost, before the collision, before I saw it.

Q. Had you been on the bridge for some time prior to that? A. I had been there all the time.

Q. Had you been looking ahead for a light of a vessel? A. We were looking very carefully.

MR. HAYDEN: That is objected to as not proper cross examination.

Q. Had you heard a blast,— (interrupted).

MR. HAYDEN: We object as not proper cross examination.

Q. Prior to the time when you saw the white light you have spoken of, what whistles had you heard?

MR. HAYDEN: That is objected to as not proper cross examination. If you want to make this witness your own witness, I will consent to it, and reserve the right to cross examine.

MR. HUGHES: You cannot attempt to establish a misleading fact without permitting cross examination.

Q. I want to know whether you had heard any passing signal from a vessel ahead, and had looked to see if you could locate a vessel or lights, prior to the collision?

MR. HAYDEN: We make the same objection.

A. Yes, sir.

Q. How long had you been looking to locate the lights of a vessel ahead, before the collision?

A. It was about four minutes. We stopped as soon as we heard the first whistle.

Q. As you were looking ahead, how long before actual contact of the vessels was it you saw any white light ahead on the vessel that collided with you?

MR. HAYDEN: We make the same objection.

A. As I said, we were right on top, just immediately before the collision, before I saw the light.

Q. Did you see it also after the collision?

A. Yes, sir.

Q. When was it that you saw a red light?

A. After the collision.

Q. Where was your ship with reference to the Strathalbyn, when you saw the Strathalbyn's red light.

MR. HAYDEN: We make the same objection.

A. She seemed to swing alongside of us, and I saw the red light; it was after the collision.

Q. How were you looking at her; were you looking opposite her beam or her bow; what position was the

Strathalbyn from the Virginian when you saw her red light?

MR. HAYDEN: Same objection.

A. I saw the red light a little abaft of the fore-rigging of the Strathalbyn.

Q. About how far away were you?

A. Right along side; before we backed away.

Q. A little abaft the rigging; you saw her abaft the rigging of the Virginian?

A. Our own forerigging, yes.

Q. About how close to her?

MR. HAYDEN: We make the same objection.

A. Right close together.

Q. What kind of a light was it?

MR. HAYDEN: Same objection.

A. It was a red light.

Q. Was it bright or dim?

MR. HAYDEN: The same objection.

A. It was not very bright, but it was a light we ought— (interrupted).

Q. Bright enough to be seen?

A. You could see it; she was right alongside; I could not say how far you could see it.

Q. Had you seen that light at any time prior to the collision?

A. No, I never saw any side lights at all.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Exercising the right to cross examine so far as you have made the witness your own.

MR. HUGHES: We will produce this witness, and assure you we will put him on, and you can have a full opportunity to cross examine.

MR. HAYDEN: Q. I will ask you a couple of questions. You started to say the red light was a light that ought to have,— what were you going to say, in connection with Mr. Hughes' question as to what kind of a light it was. What were you going to say to finish that?

A. Well it appeared to me a light that you could see a little distance without being obscured.

(Witness excused.)

MR. JOE MIGUEL, a witness produced in behalf of the libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your full name? A. Joe Miguel.

Q. You were quartermaster on the lookout of the Virginian on the night the Virginian collided with the Strathalbyn? A. Yes, sir.

Q. And you are the same Joe Miguel who testified before the United States Inspectors of Hulls and Boilers in Seattle, January 17th, 1912? A. Yes, sir.

Q. You were on the forecastle head of the Virginian at the time of this collision. A. Yes, sir.

Q. You saw two lights on board the Strathalbyn just before she struck you? A. Just after she struck us.

Q. What light did you see?

A. I could see a white light and a red light.

Q. That was immediately after you struck?

A. Yes, sir.

Q. That is all.

MR. HUGHES: As we expect to produce this witness, I will not take time to cross examine at this time.

(Witness excused.)

Whereupon the hearing was adjourned.

(Filed Feb. 9, 1912.)

DEPOSITIONS OF BYRON CAWLEY ET AL.

BE IT REMEMBERED, that on January 31, 1912, at Room No. 646 Central Building, Seattle, Washington, before me, Earl E. Richards, a Notary Public in and for the State of Washington, appeared Mr. W. H. Hayden (of Messrs. Huffer, Hayden & Hamilton), proctor for libelant, Mr. Laurence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for respondent, claimant and cross-libelant, and Mr. E. C. Hughes (of Messrs. Hughes, McMicken, Dovell & Ramsey), proctor for claimant and cross-libelant;

WHEREUPON the following proceedings were had:

BYRON CAWLEY, produced as a witness on behalf of LIBELLANTS, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) Mr. Cawley, what is your name? A. Byron Cawley.

Q. How old are you?

A. I was twenty-one in April, 7th of April.

Q. What was your business on the 12th day of January, 1912?

A. Well, I don't remember just the date, but if that was the day the collision came off I was working at Foss's.

Q. Foss's Boat House in the city of Tacoma?

A. Yes, sir.

Q. What were you doing on that day?

A. Why, I was running the launch.

Q. What launch were you running?

A. Well, I ran the "Lathea" during the day time and then at night, why, I was off until the time of the collision; then I went out on No. 10, "Foss No. 10."

Q. About what time did you leave Foss's Boat House to go out to the "Strathalbyn"?

A. Well, it must have been about nine o'clock, somewhere in there; I would not say for sure.

Q. Who was with you in the launch, if you know?

A. Well, it was Clifford Oeff and George Rich and two other fellows.

Q. And two other fellows. The Foss Boat House is at the Commercial Dock, isn't it? A. Yes.

Q. And you went from there, and where did you first see the "Strathalbyn" after leaving Foss's Boat House?

A. Well, we ran out to Dash Point, then we left Dash Point about half or three quarters of a mile before we seen her.

Q. And then where did you see her?

A. Well, she was—when we first got sight of her she must have been pretty near a mile this side of Robinson's Point.

Q. And what did you see?

A. Well, we saw her lights, was all.

Q. What lights?

A. See her masthead light and her side lights.

Q. What side lights?

A. Well, the red and green light.

Q. How far would she be away from you when you first saw those lights, would you judge?

A. A mile and a half.

Q. Did you go aboard of her at that time?

A. No, but we put a man on board.

Q. Put a man on board? A. Yes.

Q. Then what did you do?

A. Well, we ran around the end of the stern and the steamer and came up on the starboard side.

Q. On the starboard side?

A. Yes, kept alongside of her for quite a ways.

Q. Well, what did you do?

A. Well, the captain—pilot—I don't know who it was—told us to go in and put a line on the east side of the St. Paul Dock, they were going to beach her there, and we went to town and put a light there and left the man on the dock.

Q. Got a man off the "Strathalbyn"? A. No.

Q. Or was it one of the men with the—

A. (Interrupting) With the "Foss."

Q. What was done when you put Clifford Oeff on the dock? A. Went back to the steamer.

Q. Where did you meet her again?

A. Just off of Browns Point.

Q. What did you do then?

Q. We kept alongside of her until—well, for about a half a mile, then he told us to go in and take the man off from the dock, that he was going to take her to the buoy.

Q. Did you go aboard of her the second time you went out? A. No.

Q. State what you did after he told you to take the man off of the dock?

A. We went and took the man off of the dock and went back to the steamer, and he told us to stand by so that we could put a line on the buoy for him.

Q. Did you go aboard the steamer at all?

A. I did after they were tied up to the buoy.

Q. Did you see the red and masthead light burning, or green light burning, at these different times you approached the steamer? A. Yes, I saw it.

Q. When you were on board the steamer did you see the red light?

A. Well, we tied the launch up—when I boarded the steamer we tied the launch up to the life boat that was hanging from the side.

Q. What side was the life boat hanging from?

A. On the port side.

Q. About where on the "Strathalbyn"?

A. It was a little forward of amidships.

Q. Was it forward or aft of the red light?

A. It was forward of the red light.

Q. Did you have occasion to look at your launch at all?

A. Why, as I was—one of the sailors told us he would take us down in the forecabin, where they got rammed—we wanted to see where she got hit; then I walked up on the port side of the cargo, after we got up on the cargo, and I looked over the side, see the boat was not fastened under the lifeboat—the launch—and I looked over the side and I could see the red light.

Q. Where were you on the "Strathalbyn" when you looked over the side?

A. Well, I was about 40, 35 or 40 feet forward on the cargo—on the cargo.

Q. On the cargo and forward of the house?

A. Yes.

Q. Forward of the red light? A. Yes.

Q. What did you do after that?

A. Well, we went down in the forecabin where the men slept and came back again.

Q. When did you leave the "Strathalbyn"?

A. Well, I don't know. I think it was about 2 o'clock.

Q. Two o'clock in the morning?

A. Something like that.

Q. I will ask you, Mr. Cawley, if you are sure that the boat was swung out forward or aft of the red light?

A. Well, I would not say just to that. I didn't pay much attention to where the boat was swung over the side. It was somewhere right close.

Q. Somewhere right near?

A. It was right—it was not very far from the line see, and when we tied up to him I think there was a rope ladder over the side, and when I got forward I could see

the red light when I looked down to look at the launch.

CROSS EXAMINATION

Q. (MR. HUGHES) How old do you say you are?

A. Twenty-one.

Q. How long have you lived in Tacoma?

A. Oh, I don't know just; lived there in Tacoma about fifteen years.

Q. What business have you done, what work have you done?

A. I have been running a launch.

Q. How long?

A. About—well, I have been in the business about six years.

Q. Running launch?

A. Yes. I worked in a machine shop for a while.

Q. Running launch for Foss?

A. No, not for Foss all the time. I run a launch for Foss.

Q. What were you doing on this boat that night when you went out to the "Strathalbyn"?

A. Why, I was with the regular engineer and Clifford Oeff is the man that runs the boat, but I was with him that night and—

Q. (Interrupting) Were you doing anything?

A. Yes, I was helping him with the engine.

Q. Helping him with the engine. Did he have any bother with his engine? A. No.

Q. Why did you have to help him?

A. Well, I was filling the oil-cups for him and helping him around the engine a little.

Q. And talking with him, I suppose? A. Yes.

Q. You just went along to visit with him, didn't you?

A. No, I went along to see the steamer mostly. I heard she got hit.

Q. Did you have any conversation with these two men that were aboard?

A. Well, I had conversation with one of them, I got to talking about—

Q. (Interrupting) I am not asking what the conversation was, I am asking whether you talked with him, whether you engaged in conversation with him?

A. No only to speak to him once in a while.

Q. Do you know who they were?

A. One of them was one of the men that loaded the steamer.

Q. What was his name? A. I don't know.

Q. Do you know who the other one was?

A. No, I don't.

Q. Did you hear them employ the boat to take them out? A. Yes.

Q. What time did you say it was when you started?

A. It must have been somewheres around nine o'clock.

Q. How long did it take you to go out there?

A. About maybe forty-five or fifty minutes.

Q. When did you first see Robinson Point light, or didn't you see it at all?

A. I didn't pay no attention to Robinson Point light. I don't remember seeing it.

Q. Didn't pay any attention to it at all?

A. After we did go around the stern of the steamer I seen the light.

Q. You did?

A. Yes, because we were not very far from it.

Q. Who called your attention first to seeing any light that you took to be a ship ahead of you?

A. I think it was the stevedore man that loaded the steamer.

Q. Who called your attention to it?

A. I think it was him—one of the fellows.

Q. Did he call your attention to what the lights were?

A. Well, we first seen the masthead light, was the first one that I seen, called my attention to that; we didn't think there was a steamer out there when we left Dash Point, and then he seen the masthead light or white light and it was afterwards the masthead light.

Q. Did you see it? A. Yes, sir.

Q. Which way was it from you when you saw it?

A. Well, it was almost directly ahead of us.

Q. It was almost directly ahead of you? A. Yes.

Q. Was it on either bow at all?

A. Well, she might have been a little to one side, but then we could not tell until we got up close to her.

Q. You could tell from the direction of the light whether it was on one side of your bow or on the other side of your bow, couldn't you?

A. Well, it was just along straight ahead, as far as I could say.

Q. You did not pay much attention to it, did you, as a matter of fact? A. Not much.

Q. What? A. Not much.

Q. Where were you—did you pay any attention to that—when you first saw her?

A. Well, I remember leaving Dash Point we were—well, we were looking around at Dash Point—I went out on the stern of the launch at Dash Point and we ran about three quarters of a mile.

Q. What makes you think it was three quarters of a mile? You were engaged in conversation, you were not paying any attention to the distance from the "Strathalbyn", were you?

A. No, but then we could see land from where we were and we could judge just about where we were, how far off.

Q. As you saw this light did you look back at Dash Point light to see how far you were away from that?

A. There was no lights on Dash Point, only the houses there.

Q. Did you look back to see?

A. No, I glanced back, was all.

Q. You didn't have any reason for trying to locate your position there, how far you were from Dash Point when you first had your attention called to this light—white light? A. No.

Q. Your answer is "No." He can't take a nod.

A. No.

Q. Now, it is only a guess, then, how far the ship was away from you when you first saw what you took to be a masthead light, white light, is it? A. No.

Q. It is not a guess?

A. No, because I could tell that it was as much as a mile and a half, because we ran a good—well, eight minutes anyhow.

Q. How do you know you ran eight minutes, did you look at your watch? A. No, but then—

Q. (Interrupting) You are guessing at that, aren't you? Be frank about it, are you guessing at that?

A. Yes, I am guessing at that.

Q. Now, did you pass or see any other boats while you were going out to the "Strathalbyn"?

A. Yes, we passed one this side of—before we got to Browns Point.

Q. You passed one. That was then between you and the "Strathalbyn" when you claim to have first seen a white light ahead of you?

A. No, that was before we got to Browns Point. You have to round Browns Point and Dash Point before—

Q. (Interrupting) Dash Point is this side of Browns Point, is it? A. Yes.

Q. Browns Point, in other words, is nearer Tacoma than Dash Point? A. Yes.

Q. Did you see any other boats either going the same direction you did or coming from towards Seattle, after leaving or passing Dash Point and before you met the "Strathalbyn"? A. Not that I remember.

Q. You are not sure that you did not?

A. I am not sure.

Q. Who called your attention to either the red or the green light? A. Nobody.

Q. Nobody mentioned seeing the red or the green light at all? A. No.

Q. Well, which light did you first see, the red or the green? A. I first seen the red light?

Q. Are you sure that was not the red light at Robinsons Point? A. Yes, I am sure.

Q. Why are you sure? You said you did not see the red light at Robinsons Point or pay any attention to it until you got behind the "Strathalbyn"?

A. Well, from where we were lying the steamer was between us and the red light at Robinson, the way we were approaching the steamer.

Q. Then you must have been pretty close to the steamer for the steamer to cut out the Robinson light?

A. No, sir.

Q. Couldn't you see Robinson light over that steamer or by the side of it? Do you mean to say that steamer would cut off your view at all times of Robinson light until you got up close to it?

A. Well, the launch is pretty low and I could not see it, at least I don't remember seeing it.

Q. When was it you saw what you took to be the red light, before you saw the green light?

A. After we got very close to the steamer he crossed over—he didn't cross over, but he got directly ahead of her, and I went out and see the green light then, I went out on deck.

Q. When you overtook the "Strathalbyn", how near was she to Robinson Point?

A. Well, she must have been a mile this side—or towards Tacoma.

Q. About a mile on the Tacoma side of Robinson Point? A. Yes.

Q. When you overtook her? A. Yes.

Q. And she was traveling towards Tacoma, was she? A. Yes.

Q. Now, you came back to Tacoma and then returned again and met the "Strathalbyn"? A. Yes.

Q. This time you met her off Browns Point?

A. Yes. I would not say just exactly where we met her, but it was somewhere right close to Browns Point.

Q. Didn't you see her lights before you got up to her that time? A. Yes.

Q. How long?

A. Well, I didn't pay no attention, because I was down afooling with the engine then, and Clifford Oeff was on the dock at the St. Paul Mills. I was running the engine at that time, but I went out once and noticed her lights, and we were close to her then.

Q. You didn't see her lights until you got close to her the second time?

A. No, because I was inside of the boat.

Q. The boat closed in, is it?

A. Well, it has got a cabin and glass forward around the forward part of the boat, but around the side it is canvas.

Q. Canvas on the side and glass in front of where you and Oeff were at the engine? A. Yes.

Q. Now, you went back again. Then when the boat came in you went on board of the "Strathalbyn"?

A. Yes, sir.

Q. When you went aboard you said you went up forward of her deck load, her front deck load? A. Yes.

Q. Did you cross over it?

A. Well, I followed along the port side and then on over.

Q. Well, you followed along the port side of the ship until you came to the forward deck load, then you climbed up and went over the top of the deck load, did you? A. Yes, sir.

Q. And how did you get up there?

A. Well, there is a pair of steps right forward the—or right under the bridge, I think, I won't say just to that, because I didn't pay much attention to it.

Q. There are steps running up to the deck load?

A. Yes.

Q. Or up to the bridge?

A. No, there is a pair of steps up to the deck load—to the top of the deck load.

Q. You didn't step across from the bridge to the deck load?

A. No, I was on the deck and then went on top of her deck load.

Q. About how high was that deck load?

A. It must have been—

MR. HAYDEN: (Interrupting) I object to that as not proper cross examination.

Q. (Mr. Hughes) Go on.

Q. It must have been six feet.

Q. You think as much as six feet, do you?

A. Yes, maybe more. It was not very much more, I don't think—six or eight feet.

Q. When you got across the deck load did you go down on the other side, on the forecastle head?

A. Yes, I went down on the forecastle.

Q. How did you get down there?

A. Well, we went down a pair of steps.

Q. How many steps did you go down to get to the forecastle deck?

A. Well, I don't know, I think it was about twelve feet.

Q. About twelve feet. Was the deck load practically level as you walked across it?

MR. HAYDEN: Same objection, as not proper cross examination.

A. The steamer had a big list astarboard.

Q. (Mr. Hughes) No, aside from that I mean?

A. Well, I should judge it would have been level if the steamer hadn't had the list.

Q. The life boat on the port side you say was hanging over the side of the ship, was it? A. Yes.

Q. Was it in its davits?

A. Yes, it was hung down from the davits.

Q. Had it been dropped down or was it in its regular position for sailing?

A. No, it had been dropped down over the side aways.

Q. Over the side. And you looked down under that to look at your launch, did you? A. Yes sir.

Q. You stepped over to the side of the ship and looked down at your launch? A. Yes.

Q. What was your purpose in doing that?

A. I wanted to see that the launch did not swing under the life boat and knock her lights off. Her forward light is put up on a little box and it just swung under the life boat.

Q. You could see her lights, the lights of your launch were clear of the life boat, were they? A. Yes.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN.) Do you know the name of that boat that you passed off Browns Point—the other boat?

A. Well, I don't know, but if I—I think it was either the "Darring" or the "Dart", one of Captain McDonald's boats.

Q. Did you mean that the deck load that you saw and which is referred to as being six feet, was that six feet from the deck or six feet from the rail of the

“Strathalbyn”, six feet above the deck or six feet above the rail?

A. Well, when I got aboard the steamer, you see, there was a rail, a bulwarks, you see; looked over and the boat was—well, directly beneath me, the life boat, and you had to go down a rope ladder there, and then I could look up and see the top of the deck load. From where I was there was—I guess it was maybe two feet above my head anyway.

Q. You say you went down 12 feet forward to go into the forecastle?

A. Well, I would not say it was 12 feet, but something like that.

Q. Something like that. And your deck load was about the same height on the after part of the forward deck load as it was on the forward part of the deck load, do you remember?

MR. HUGHES: I suggest it is not well to lead this witness.

MR. HAYDEN: I just ask him if he remembers?

A. Well, I don't remember.

Q. (MR. HAYDEN) Have you been doing a good deal of sailing around in these launches?

A. Yes, quite a bit.

Q. How long have you been doing that?

A. Five or six years.

Q. Accustomed to distances they run and distances you see on the water? A. Yes.

RE-CROSS EXAMINATION.

Q. (MR. HUGHES) As I understand you, when you went out to the “Strathalbyn” you don't recall passing any other boat coming to Tacoma, seeing the lights of any other boat that you passed?

A. Well, we passed that one just this side or just on the other side of Browns Point.

Q. And that you say was the “Darring” or the “Dart”— A. I think it was.

Q. The “Darring” or the “Dart”?

A. When we were coming in from the steamer, why, we passed a big boat going out to her; one of Captain Olson's boats was on the way out to meet her.

Q. You did not pass the “Virginian” that night?

A. No. The "Virginian" was in at the dock before we left.

Q. Oh, the "Virginian" was in the dock before you left? A. Yes.

Q. You remember seeing her at the dock before you left, do you?

A. She was just landing when we left; she hadn't been all tied up yet.

Q. What is the speed of that little launch that you were on that night?

A. She makes about—they claim she makes pretty close to ten miles an hour, between nine and a half and ten miles an hour.

Q. Well, were you running full speed that night?

A. Yes, we ran full speed.

Q. All the time? A. Yes.

(Witness excused.)

JOHN BROWN, produced as a witness on behalf of libellant, having been first duly sworn by the notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your name?

A. John Brown.

Q. Were you aboard the "Strathalbyn" the night of the collision with the "Virginian"? A. Yes sir.

Q. What was your business on her? A. Fireman.

Q. Are you with her still? A. No, sir.

Q. When did you leave her? A. Victoria.

Q. Where were you when the collision occurred?

A. My headquarters in the forecastle?

Q. What? A. My headquarters in the forecastle.

Q. Did you hear any whistles that night?

A. Yes sir, I did.

Q. State what you heard?

A. I heard one whistle and then I heard another one afterwards, and shortly after I heard three.

Q. From what steamer were those whistles?

A. From the "Strathalbyn".

Q. How far apart would you say those whistles were?

A. Well, might be a minute, one after the other, sir.

Q. How long was it after you heard these three blasts of the "Strathalbyn" before the vessels struck?

A. Very shortly afterwards; it might have been a half a minute, thirty or forty seconds; might have been a minute; for she struck directly after she blowed the whistle.

Q. What did you do after they struck?

A. I went out as quick as possible.

Q. What happened to the forecastle when they struck?

A. Tore the whole side of it out and everybody was making for a hole to get out at.

Q. Did you get out?

A. I got out; I was the first one out of there, sir.

Q. What did you do as soon as you came out?

A. I ran up on top of the deck load, over to the port side, and I heard the captain singing out to get the boats ready. I jumped up on the bridge and started to clear the after fall out of the boat.

Q. When you were going from the forecastle head aft did you see any lights? A. Yes sir.

Q. What lights did you see?

A. I seen the red light and the masthead light.

Q. How did they appear to be burning, to you?

A. Very bright, sir.

Q. What did you do with the boats?

A. Lowered them, sir. When we got through on that one, we lowered the other one abaft the forecastle on the port side.

Q. What side of the bridge did you get up on?

A. Port side, sir.

Q. Off the lumber? A. Yes sir.

Q. Was that when you saw the red light?

A. Yes sir. I could not help seeing it. I walked over to the port side. I could see that light. It shines right in your eyes.

CROSS EXAMINATION.

Q. (MR. HUGHES) You didn't hear any danger signal then, did you? A. Sir?

Q. You didn't hear any danger signal, did you?

A. No sir, I was too busy with the boats afterwards. I heard one whistle—

Q. (Interrupting) Before the collision?

A. Before the collision I heard one whistle, and then another one, and then three.

Q. One whistle and then another one from some other ship?

A. No, no, from the same, from our vessel, and I didn't hear any whistle from any other ship at all.

Q. You didn't hear your ship then give a whistle to the "Flyer" and the "Flyer" answered you?

A. No, I did not, sir.

Q. Anything to prevent your hearing that?

A. Anything to prevent me?

Q. Yes.

A. No sir; I was down in the fore-castle. I was out about a quarter of an hour ahead of that time before the collision, I was coming on watch at the time.

Q. Did you see the "Flyer"?

A. I saw the "Flyer," yes sir.

Q. You didn't hear the "Flyer" give any whistle to your ship?

A. That was after the collision I seen the "Flyer."

Q. You didn't see the "Flyer" before the collision?

A. No sir, I didn't.

Q. You heard three blasts about a minute apart, you think? A. Yes sir.

Q. And before that you had heard two?

A. I heard two, one and then another one very shortly afterwards.

Q. You took that for a starboard whistle or port whistle? A. No, it was a port whistle, sir.

Q. Two whistles, you understand two whistles is a port whistle, do you?

A. Yes, you bet you. I have been to sea long enough to know that.

Q. What do you understand one whistle to be?

A. Passing on the port bow, sir—port side.

Q. What do you understand the two whistles to be?

A. Starboard.

Q. Starboard the helm?

A. No, port your helm—or starboard your helm.

Q. Yes? A. Passing on the starboard side.

Q. How long had these two whistles that you say would be a starboard the helm been given upon your ship before you heard these three whistles?

A. Just about a minute apart.

Q. About a minute that those two whistles were given before the first one of these three whistles?

A. One whistle first and the very near a minute between it and then they blowed another whistle, and then very shortly after that he blowed the other three, and then I knew there was something wrong, so I was prepared, if anything should happen, to get out. I just called that young fellow over—he was on the other side—to get out of his bunk.

Q. What did you say you did—you went up on the cargo, on the lumber cargo? A. Yes.

Q. Did you get out before she struck?

A. I was out fifteen minutes before she struck, and then I went down below again.

Q. Down below in the forecastle? A. Yes.

Q. Now, after you heard these three whistles did you get out before—

A. (Interrupting) No.

Q. (Continuing)—the ship struck?

A. No, no.

Q. Got out after it struck? A. Got out afterwards.

Q. And then you climbed up over the cargo, did you?

A. Yes, went up on it and climbed over the cargo, walked over the deckload.

Q. How could you get up there from your forecastle deck? A. A little stair there.

Q. How high? A. Well, I should judge about—

Q. (Interrupting) From the forecastle deck?

A. Well, I should judge about twelve or thirteen feet high.

Q. From the forecastle deck?

A. From the forecastle deck.

Q. How much is the forecastle deck below the deck on which—above the deck on which the cargo was?

A. The deck is just level with the main deck, it is only one deck there and then you have the 'tween decks.

Q. The forecastle deck is not elevated then?

A. Well, it is a little higher—

Q. (Interrupting) The forecastle head where your cabin was? A. Well, it is right on top of the deck.

Q. Right on top of the deck?

A. Top of the deck where the lumber was piled on.

Q. When you came out of there—of your cabin, how far did you go back before you came to this cargo of lumber? A. Well, about fifteen feet.

Q. Fifteen feet. How was this cargo of lumber held there?

A. Well, kind of squeezed together a little bit.

Q. Stanchions there?

A. No sir, not there, not down below.

Q. But on the side you were on, the cargo loaded up there —

A. There were stanchions on the side inside of the rail, to hold it there.

Q. Inside of the rail? How high were they?

A. Well, I should judge about three or four feet higher than the lumber was. Not much. Some, I think, was shorter and some I think was a little longer.

Q. Was there a ladder or steps there?

A. Just steps built out of lumber. When they were putting lumber in they made some kind of steps to go up.

Q. Do you know how many of those you climbed up?

A. No sir, I don't know. It might have been nine, might have been ten.

Q. Might have been more or less, for that matter?

A. More or less.

Q. Then you walked across the top of that cargo

A. Yes sir.

Q. How did you get onto the bridge?

A. Climbed up on top of it.

Q. Did you step across or use steps there?

A. No, there was steps to go down on the fidley deck there.

Q. How near did this cargo come to the bridge deck?

A. There is a place there on each side, on the port side and on the starboard side, where you can climb up on, a place there to—

Q. (Interrupting) You walked on the top of this cargo?

A. Walked over to the port side, and when I heard the captain singing out to get the boats ready, the lumber was about that far below the lower bridge.

Q. You climbed up on the lower bridge?

A. I climbed up on the lower bridge.

Q. How far did you have to step across there, how much space was there between the lumber and the bridge deck?

A. Oh, there was not much space. I didn't notice how much space there was. I know I could climb up there.

Q. Three or four feet?

A. No, it was not as much as that.

Q. How close did it come to the bridge deck?

A. Well, I don't know how close it was, I never know that.

Q. You just stepped across there, did you?

A. No, I didn't step across, I climbed over.

Q. Was there any railing there?

A. Yes, there is a rail there.

Q. You had to climb over that railing?

A. Yes, I had to climb over there to get at the boat.

Q. How high was that railing above the bridge deck? A. About three feet high, I guess.

Q. And that is what you climbed over, is it?

A. Yes sir.

Q. Which side did you walk on as you walked across that cargo of lumber?

A. I came from the starboard side—kind of steps where you come up—it is a little bit more on the starboard, it is not quite amidships, it is more on starboard than port, so I crossed from the starboard side to the port.

Q. You got on the bridge and then crossed over on the bridge?

A. No, I didn't. I walked from starboard to port aft to the port boat, I stayed on the same side and then walked across.

Q. Then when you came out of the forecastle cabin—

A. (Interrupting) Yes.

Q. (Continuing)—you got up on top of the cargo of lumber. A. Yes, I did.

Q. And then you walked back on the starboard side of your ship, did you?

A. No, on the port side.

Q. I understood you to say you walked back on the starboard.

A. I crossed from here—here is starboard and here is port—I crossed from here over to the port side.

Q. From where did you cross over to the port side?

A. Walking up.

Q. Oh, you walked diagonally across, do you mean, to the port side? A. Yes sir.

Q. You walked, you got up on the starboard side, and as you walked over to the lumber you walked—

A. (Interrupting) Going across, walked very near over—

Q. (Interrupting) So you walked past the rigging, did you? A. Yes sir.

Q. And then climbed up on the bridge rail onto the bridge deck? A. Yes.

Q. And then walked back on the port side on the bridge deck—

A. (Interrupting) I walked aft on the port side. That was aft already.

Q. Where were those boats?

A. The boats were right underneath the bridge.

Q. Right underneath the bridge?

A. Yes, it was right on the port side, right alongside of the bridge, and one on the other side, too.

Q. Extend in front of the bridge at all?

A. No, not in front of the bridge; right alongside of the bridge. The bridge is here and the boats, one of them on each side of the bridge. The starboard one is a little abaft, and so is the port, but port—the starboard is a little—I should say a little further aft than the port one.

Q. Do they hang above or below the light?

A. They hang above the light; they swung in, you know, on deck, they were in the—

Q. (Interrupting) The lights were where, on the foot of the bridge or right at the end of the bridge?

A. The light was a little bit abaft the bridge—a little bit abaft.

Q. A light on the port side?

A. Not abaft the whole bridge, but you know where the bridge started, you know where the light box is.

Q. A little back of about the center of the bridge, then? A. Yes.

Q. On the port side? A. Yes.

Q. And did you say the boat hung right over the light or back of it?

A. No, the boat didn't hang any place, the boat was on top.

Q. Well, it was in the davits?

A. The boat was landed on deck, standing—

Q. (Interrupting) When you got—

A. (Interrupting) The boat is on the aft part of the light altogether.

Q. Back of the light? A. Just back of the light.

Q. So that you walked right back and went to work to get the boats out? A. Yes.

Q. And did not pay any attention to the lights there? A. I paid attention when I walked out.

Q. Why, how did you come to do that?

A. I generally do because I am old enough to see that it is the first thing I will look at, is the lights.

Q. It was all excitement there at that time, wasn't it?

A. Not such excitement—I had time enough to look at the light, I could not help looking at it, the reflection came right down on deck, of the masthead light, and as soon as I got across over to the port side I could see the port light right there.

Q. It was right at your feet, was it?

A. You bet you. It didn't take me long to get out of there.

Q. You remember looking down at it, do you?

A. I remember looking at the light.

Q. How much was it below the level of your shoes?

A. Oh, the light?

Q. Yes. A. The light was above the cargo.

Q. I am talking about when you stood on the bridge deck. A. Well—

Q. (Interrupting) I am talking about that port light.

A. Yes. Well, that was—it was above the bridge.

Q. How much above?

A. I don't know, I never measured that; but I know it was above.

Q. How much is it inside of the ship's line?

MR. HAYDEN: Oh, I object to that as not proper cross examination.

MR. HUGHES: You think it is improper, do you?

Q. (MR. HUGHES) Go on, answer it.

A. Inside of the rail?

Q. Yes.

A. Well, I should judge it is outside of the rail.

Q. Do you know about that?

A. It ought to be a little bit outside of the rail.

Q. Yes, but I am asking you how it was on that ship.

A. Well, you asked me if the light was burning bright, and I know.

Q. I am asking you where that light was on the ship, if it was inside or outside of the rail?

A. I know there was one on the port side and one on the starboard side. I don't know how far it was in or outside.

Q. Did you have anything to do with lighting those lights? A. Sir?

Q. Did you have anything to do with lighting them?

A. No sir.

Q. Or putting them up, taking them down?

A. No sir, nothing at all.

Q. Did you notice the masthead light before that time? A. Yes, I did, sir.

Q. Where was it?

A. It was burning bright up in the mast, where it belonged.

Q. How?

A. It was up on the mast where it belonged.

Q. Don't you have an electric light up there?

A. Yes. It was just below that.

Q. Was the electric light not used that night?

A. No, not that I know of.

Q. That is what I want to get at. Where was this put up with reference to the electric light?

A. The dynamo was on the bum, I suppose.

Q. But where was this light with reference to that electric masthead light?

A. In the place where it belongs, I suppose.

Q. It could not be in the place where the electric light should be, would it?

A. It was just below that.

Q. Well, how much below it?

A. Well, I should judge about a foot, two blocks up against the other one.

Q. Pulled up there by a block underneath the fore-stays?

A. A single halyard right up on the fore part of the mast.

Q. Was that pulled up there right under the fore-stays?

A. I don't know, the halyard—it was made fast there, I know the light was there.

Q. Did you have any forestays there?

A. I guess they have on any ship.

Q. Did you on that ship?

A. I don't know, I never looked at it. I came out after the collision. I didn't notice there was any stays at all there. I know the light was there. I guess they must have caught it when the collision, because it was right on the bow, the bow was taken off of her.

Q. How tall are you?

A. About five foot eight and a half.

Q. Will you look at this picture or photograph. Do you see your picture there (handing photograph to witness)? A. No, I don't.

Q. Isn't that your picture—the man with the mustache there? A. Where?

Q. Right here (indicating).

A. No, that is the boatswain. That is the biggest fellow in the ship. That is the biggest man in the ship, sir. And that is one of the quartermasters, and that is

the second mate and that is that man sitting down there and that is a steward and that is another—

Q. (Interrupting) Never mind.

A. I was not long aboard, but still I know them.

Q. You say this man with the cap and mustache is the boatswain?

A. Yes, that is the boatswain, sir—that man there.

MR. HAYDEN: Do you want to put that picture in evidence now so that the court will know what you are referring to?

MR. HUGHES: I thought it was his picture—the man with the mustache.

MR. HAYDEN: I move to strike the reference to picture from the record.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) When you spoke about the two whistles that you heard meaning go to port, you meant that those two whistles were given at intervals?

A. Yes sir.

Q. And indicated a port passage; is that it?

A. That is what I meant.

Q. And you had to step up from the deckload of lumber onto the bridge deck?

MR. HUGHES: Oh, well, wait a minute.

A. Yes sir.

MR. HAYDEN: That is all.

MR. HUGHES: I move that the question and answer be stricken out because it was wilfully leading, this witness particularly.

Q. (MR. HAYDEN) Did you or did you not have to step up onto the lumber to get onto the bridge deck where the light was burning? A. Yes sir, I had to.

(Witness excused.)

TURSTEN LUNDBERG, produced as a witness on behalf of LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your name, Mr. Lundberg? A. Tursten Lundberg.

Q. How old are you? A. Twenty-five, sir.

Q. Were you on the "Strathalbyn" on the night of the collision with the "Virginian"? A. I was, sir.

Q. Where were you at the time of the collision?

A. I was down in fireman's forecandle.

Q. Are you with the "Strathalbyn" now?

A. No sir.

Q. You have left her? A. Yes sir.

Q. After the collision what did you do?

A. I went up on deck as soon as possible.

Q. And where did you go?

A. I went up on the port side and followed the port side over until I came to the bridge.

Q. What did you do after you came to the bridge?

A. The captain sang out to lower boats clear.

Q. Now, going back to the time you came up out of the forecandle, how did you get out of there?

A. Oh, I came out there pretty quick.

Q. But how did you get up onto the deckload of lumber.

A. Oh, I had to pass a little alley between the lumber, on steps.

Q. That alleyway between the firemen's quarters and the sailors' quarters in the forecandle? A. Yes.

Q. And these steps are at the mouth of this alley here? A. Yes sir.

Q. And you went up these steps onto the lumber; is that it? A. Yes sir.

Q. When you came up on the lumber where did you go? A. I went up—

Q. (Interrupting) How did you go up there, which way did you take your course?

A. I went right on the port side, the high side.

Q. Did you or did you not observe any lights on the "Strathalbyn" at that time?

A. Yes, I seen that red light at that time.

Q. Did you see any other light?

A. No sir, I didn't observe another light.

Q. From what position did you first see the red light after the collision? A. Was walking aft.

Q. Right ahead on the deckload? A. Yes.

Q. How was that light burning? A. Bright sir.

Q. Have you been to sea where they burn oil lamps?

A. Yes sir.

Q. Are you accustomed to the oil lamps.

A. Yes sir.

Q. Lights on ships? A. Yes.

Q. Signal lights? A. Yes.

Q. How would you say this light compared with the ordinary oil lamps used for signal lamps on ships?

A. Well, just about the same, burning bright—what we call bright.

CROSS EXAMINATION.

Q. (MR. HUGHES) What is your position?

A. I am an able-bodied seaman.

Q. How long have you been on the "Strathalbyn"?

A. About three hours.

Q. Just been employed there?

A. Yes sir, I joined her in Tacoma.

Q. For a voyage? A. Yes sir.

Q. So you don't know anything about her except what you learned in that three hours? A. No sir.

Q. Did you observe how much those lamps were smoked? A. No sir.

Q. You did not observe? A. No.

Q. You only saw the red lights? A. Yes sir.

Q. Did you observe any other lights on her?

A. After we had loaded the boats, the second boat, the second port boat, I saw the starboard light. The starboard light was out then after the collision.

Q. Was out? A. After the collision, yes.

Q. How long was it after the collision that you saw that the starboard light was out?

A. I didn't see it, sir. The third mate told me to light the starboard light.

Q. To light it, and you went around and lighted it, did you? A. Yes, we took it in the wheelhouse.

Q. Was it pretty badly smoked?

A. No, it was not smoked, as far as I could see.

Q. Well, now, the glass was smoked more or less, wasn't it?

A. No. I don't think that there was any glass inside.

Q. I know, but the outside glass.

A. No, it was not smoked.

Q. Are you sure about that? A. Yes.

Q. Did you clean it at all?

A. No, I didn't clean it—just burning bright afterwards—after we had lit it.

Q. When you went to take it, it was out, was it?

A. At the time we took it from the light screen, yes.

Q. That was pretty shortly after the collision, was it? A. Yes. Well, we had made two boats ready then.

Q. Made two boats ready and then you lighted this light? A. Yes.

MR. HAYDEN: I move to strike all of that testimony about the starboard light, as incompetent, irrelevant and immaterial.

Q. (MR. HUGHES) Did anybody tell you about having had to light up the port light?

A. I didn't catch it, sir.

Q. Did anybody tell you about having to light up the port light? A. No.

Q. About the port light being out at that time?

A. No sir. I went over—when I had lit that light I went over to the other side and had a look at the port light at the same time and it was burning bright.

Q. Did you know whether anybody else had lighted it? A. No sir.

Q. Nobody told you anything about that?

A. No sir.

Q. Did the mate tell you to go and look at it?

A. No.

Q. After you lighted the starboard light? A. No.

Q. How did you come to go over there and look at it? A. Well, I made it my business to do so.

Q. Had you had anything to do with lighting either of these lights before you started out from Tacoma?

A. No sir.

Q. Did you ever see them or examine them before the collision? A. No, I did not.

Q. The first time that you ever noticed any of these lights, then, was after the collision? A. Yes.

Q. When you came out—after you came out of the forecastle? A. Yes.

Q. You say you came out of the forecastle pretty quick? A. Yes sir.

Q. And then you went back, climbed up on the steps made of the projecting timber, was it?

A. Yes, that is right.

Q. And do you know how many of those steps you climbed up? A. Well, I didn't count them.

Q. Do you know how far they were apart?

A. No, I didn't take any notice of that.

Q. Pretty good climb, though, wasn't it—straight up, wasn't it? A. I guess I could do it in one step.

Q. Were you scared so badly you didn't know anything about it? A. Yes, I came out—

Q. (Interrupting) Rushed up there to see what was the matter? A. Yes.

Q. Now, when you got up on top, were you about the center between the port and starboard sides of the ship—how? A. I went right up to the port side.

Q. No, but when you got up on the cargo, those steps leading up there from your forecabin was about the center of the cargo, wasn't it?

A. Yes—not quite in the center, more forward.

Q. Well, I don't mean that, but was it nearer to the port side than the starboard, or nearer to the starboard than the port?

A. I think it was nearer the starboard side.

Q. A little nearer to the starboard side? A. Yes.

Q. When you got up on top there did you say you saw the port light? A. Yes sir.

Q. When you first got up on top?

A. No, when I came up on the port side—exactly up on the port side.

Q. Well, did you go right, straight over to the port side?

A. You see she was keeled over very much, you know, and I made for the higher side of the boat.

Q. The starboard side was low? A. Yes.

Q. Listed? A. Yes.

Q. And you made for the higher side? A. Yes.

Q. You got clear up over the edge of the ship, did you? A. Yes, right to the stanchions there.

Q. And right by the stanchion? A. Yes.

Q. Well, could you see over the top of the stanchion to see the port light?

A. No, I don't think I seen through—I could see through the stanchions to see the port light.

Q. You could not see through a stick of wood, could you?

A. No, but the stanchions were far apart, sir.

Q. The screen would keep you from seeing the light until you got clear out—

A. (Interrupting) Yes.

Q. (Continuing)—parallel with it.

A. I know, but I was right up on the weather side so that I could see it.

Q. You were up, clear up to the rail, the ship's rail?

A. Yes.

Q. Outside edge of the—

A. (Interrupting) Well, as far as I could go, as close as the lumber.

Q. And that would put the stanchion right in front of you, wouldn't it?

A. No. Well, the stanchions were all along close all the way.

Q. All the way along there?

A. Yes, on that high part.

Q. You were tall enough to look over the top of the stanchions, were you, the stanchions were not—

A. (Interrupting) I don't remember that, sir, whether I could see over the stanchions or not.

Q. Do you remember how high the stanchions were above the lumber? A. No sir.

Q. How tall are you? A. I am about five feet nine.

Q. And when you got back to the end of the lumber you crawled over the railing of the bridge onto the bridge deck, did you? A. That is right, sir.

Q. That railing is about how high?

A. About three feet.

Q. How close did the lumber come up to the rail?

A. Well, it was below.

Q. How close did it come up to that part of the ship, I mean.

A. Oh, I see. I didn't notice that, sir. I didn't notice that.

Q. Was there any space between the cargo and the bridge? A. I didn't notice that, sir.

Q. You didn't notice it? A. No sir.

Q. You were still scared and in a good deal of a hurry, I suppose? A. Oh, I was not scared.

Q. Weren't you? A. Oh, no.

Q. How far were you in front of the light when you saw the red light? A. Well, I was—

Q. (Interrupting) How close were you to it?

A. I was just—I was—it was the first—the first I see as soon as I came up on the port side I went at right angle up.

Q. You went diagonally across the cargo to get up to the

A. I went at right angle from the end of the entrance to the forecastle right up.

Q. That is, you turned to your right as you walked back? A. Yes.

Q. And kept up until you got to the higher side?

A. Yes, that is where I seen—

Q. (Interrupting) How near were you, then, to this light when you first saw it?

A. Well, I was—from the light, I don't know how far I was from it.

Q. Fifteen or twenty feet in front of it?

A. Oh, yes.

Q. How? Yes sir.

Q. Was it more than that?

A. Well, I can't say exactly, sir?

Q. Well, you were pretty close to it, weren't you?

A. Yes.

Q. Were you standing inside of the stanchions when you saw it, or leaning outside of the stanchions?

A. I was standing inside of the stanchions, sir.

Q. And then light was right, straight ahead of you, was it?

A. Oh, I don't know whether it was right straight ahead, but I know the impression I got that I seen the red light.

Q. Did you notice when you looked at it afterwards whether the screen-board was parallel with the ship?

A. Yes sir, I noticed.

Q. Now, when the mate told you to go and light the starboard light you say you took it out?

A. The third mate took it out himself.

Q. Then you lighted it and took it back and put it in its place?

A. No, the third mate put it back in its place. I just lit it.

Q. Then you did not go to the screen-box itself?

A. Yes, I was down there.

Q. Where was the screen-box?

A. It was right on the—

MR. HAYDEN: (Interrupting) Same objection as to this starboard light, as immaterial.

Q. On the lower part of the lower bridge—on the forward part of the lower bridge.

Q. (MR. HUGHES) On the outer end of the lower bridge? A. Yes.

Q. On the port side and right under, about the floor of the bridge? A. Yes.

MR. HAYDEN: What is this on the port side?

MR. HUGHES: Or starboard side, I mean. I am speaking of the starboard light. A. Yes.

Q. I meant the starboard. How much was it inside of the end of the bridge?

Q. (MR. HAYDEN) If you know.

A. Inside of the end?

Q. (MR. HUGHES) Answer me. (Drawing.) Here is the bridge. Now, the ship runs along underneath here.

MR. HAYDEN: I object to that picture as not being an accurate representation of the situation.

Q. (MR. HUGHES) Call this the end of the bridge and the ship running down below like that, the screen was right on the floor there, just inside of the end of that bridge, was it?

A. No, outside of the bridge, outside of the bridge.

Q. Well—

A. (Interrupting) Outside of the lower bridge. Here is the lower bridge, see?

Q. Yes.

A. And here is the light standing here in the screen. The light would come—would be aft of the bridge, like this. Here is the place for the light, about. The screen goes the whole way this way.

Q. How much is that inside of the rail of the ship?

A. I don't know, sir.

Q. You don't know? A. No.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) How long were you working getting the two boats down?

A. Well, I don't know how long a time it takes, sir.

Q. Had some trouble with your falls, didn't you?

A. Yes.

Q. Tangled up on you?

A. We lowered it—the forward boat first, lowered it level with the rail and then we went aft and shoved the other boat out, and then I went back again and cleared the falls of the forward boat.

RE-CROSS EXAMINATION

Q. (MR. HUGHES) Had you done that before the "Flyer" came up to you?

A. I don't know, sir. I don't know exactly if I seen the "Flyer" or not, because I was busy on that boat.

Q. Don't you remember seeing the "Flyer"?

A. Yes, I saw the "Flyer", I believe, but I don't know who they are.

Q. You heard somebody from the "Flyer" call and ask if there was anything wrong? A. Yes, I did.

Q. That was after you lighted the light, wasn't it—the starboard light? A. Yes, that is.

(Witness excused.)

JOSEPH SHEEHAN, produced as a witness on behalf of libellant, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your full name?

A. Joseph Sheehan.

Q. What is your business?

A. Fireman on the "Strathalbyn".

Q. Were you on board the "Strathalbyn" the night of this collision with the "Virginian"?

A. Yes sir.

Q. Where were you at the time of the collision?

A. In the forecastle, sir.

Q. What side? A. The port side.

Q. What did you do after the collision?

A. After the collision we got all on deck, lowered the boats, sir, lowered the life boats.

Q. What did you do immediately after the collision when they came together?

A. We got up on deck, sir, as quick as we could, out of the forecastle, out of the alleyway, and on top of the lumber and along the port side, sir.

Q. Did you see any lights while you were going along the port side?

A. Yes, I seen a masthead light burning bright, and the port light burning, and I had to cross from the port side to the starboard boat on the bridge deck to this boat I belonged to—No. 2 boat, second mate in charge.

Q. How was the port light burning?

A. The port burn bright, sir.

Q. Did you see the starboard light at all?

A. No, I didn't see the starboard light at all, sir.

Q. You were on the port side of the ship?

A. On the port side of the ship.

CROSS EXAMINATION.

Q. (MR. HUGHES) What is your nationality?

A. Fireman, sir. Nationality? An Irishman, sir.

Q. What watches did you keep on that ship?

A. 8 to 12, sir.

Q. What? A. 8 to 12 watch, sir.

Q. Had you changed watch at 8 o'clock yet?

A. Yes sir. The man came to call us at three bells, half past seven; that is half an hour before we go on; and the man on the lookout, he was singing out at three bells "The lights are burning bright."

Q. I am asking you if you had changed watch at 8 o'clock before this collision occurred?

A. No sir, did not.

Q. Well, was it time to change watch?

A. No sir, it was not. Twenty minutes to 8 when the collision occurred. Twenty minutes more I should go on watch.

Q. Twenty minutes more? A. Yes.

Q. By your ship's time? A. By our ship's time.

Q. You climbed up on this deck cargo, did you?

A. I did, yes.

Q. And you went up to the port side because the ship was listed there? A. The ship was listed.

Q. Listed pretty badly, was it?

A. Very badly, sir, listed, and all the time from the time she struck the water was running into her hold.

Q. She was listed before that, wasn't she?

A. She was listed right after the collision, sir.

Q. But she hadn't had time to list very much after the collision before you got up on top of there, had she?

A. Oh, no, she had listed over all the time, but she had more of a list when the water—

Q. (Interrupting) But there hadn't been very much time for the water to list her very much after the collision before you got up there? A. No.

Q. About how much was she listed when you walked across her cargo load?

A. She had listed bad enough that I had to hold to those scantlings what was keeping the cargo tight, catch hold and walk around the port side.

Q. You did? A. Yes.

Q. Those stanchions—you mean the stanchions?

A. Stanchions, yes sir.

Q. There were stanchions along the port side, were there? A. Yes sir.

Q. And also stanchions at the end next to the bridge

A. Yes, up as far as the bridge, not—just up to the bridge, that is, up to the fore bulkhead, I call it.

Q. How close are those stanchions together that you got hold of to walk along as you walked along the port side?

A. They were right there and we had a line to walk along, like a life line, to catch.

Q. How far apart were they?

A. About six feet apart, I think.

Q. And then a life line stretched along from one to the other? A. From one to—

Q. (Interrupting) And you walked along by catching hold of that life line and walking along the starboard side of the ship as she was listed there? A. Yes sir.

Q. (MR. HAYDEN) On the starboard side?

A. Port side.

Q. (MR. HUGHES) I mean the port side walking along toward the bridge.

A. Yes. I had to jump on the bridge then from the lumber to get on the bridge, to go on to the boats.

Q. Did you get across right there at the port side or did you go down towards the middle?

A. I had to go to the bridge deck before I crossed over on the starboard side. It was a starboard boat.

Q. Yes, but you walked back to the bridge deck along the port side? A. Yes.

Q. And then did you climb up on the bridge deck from the port side?

A. Yes, I climbed up on the bridge deck from the port side.

Q. Climbed across that rail? A. Yes.

Q. The cargo was close enough so that you could take hold of the railing with your hand and climb over?

A. Climb over, yes.

Q. Then you went across to the starboard side?

A. Starboard side.

Q. You went across in front of the chart house, did you? A. In front of the engine room, sir.

Q. In front of the engine room, yes.

A. Yes, the boats were abreast of the engine room, abaft of the bridge.

Q. Did you notice the starboard light?

A. I didn't take any notice of the starboard—I noticed, the port light I could see quite plain.

Q. You know as a matter of fact the starboard light was out, don't you?

A. I didn't take no notice of it because we pulled constantly when we got lowering the boats and working the falls—

Q. (Interrupting) When you were working there, before you got those boats down on the starboard side, didn't you see the mate take out the starboard light and light it and put it back again?

A. No sir, I didn't take any notice, because we got all of us below, all the firemen had gone below. We all had to go down below to run her aground or whatever point they were going to run her, because the boat was

filling up with water ; all hands had to go below in the fire room.

Q. Oh, put you on duty?

A. On duty, sir, after the collision.

Q. As you walked back you walked along the inside of the stanchions, didn't you? A. Yes sir.

Q. Holding fast to that life line? A. Yes sir.

Q. As you were walking back, when you came over to the port side, could you see that port light?

A. Yes sir, burning bright, and the lamp—mast-head light showed me right on top of the lumber.

Q. So that walking back there you could look right at the port light, could you? A. Yes sir.

(Witness excused.)

P. FURLONG, produced as a witness on behalf of LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. HAYDEN) What is your name?

A. P. Furlong.

Q. You were aboard of the "Strathalbyn" the night of the collision? A. I was, sir.

Q. What were your duties?

A. Fireman and trimmer.

Q. Where were you at the time of the collision?

A. I was in the forecastle, sir.

Q. Which side? A. Port side, fireman.

Q. How long had you been in there just before the collision? A. About ten minutes, sir.

Q. Are you the man who came up to call the watch?

A. Yes sir.

Q. What did you do as soon as the ship struck?

A. I made a rush up at the forecastle for the deck. As I was coming up—

Q. Just go right ahead.

A. As I was coming up the opening in the lumber that is about amidships, between the two forecastles, why, I happened to look up and I saw that the masthead light was burning, and I run over them and as I came up she had such a list I had to go down on my hands and

knees, I hurt my knee. I never noticed until I got up on deck.

Q. Hurt your knee down in the forecastle somewhere?

A. Yes, a barrel of oil struck me there, coming up, and then I crawled over, got hold of the rail and managed to go along the rail on the port side until I got aft.

Q. Did you see the light at all while you were forward—the port light? A. I did, yes sir.

Q. How did it appear to be burning?

A. It appeared to be burning the same as any other ordinary light—oil light. I should say bright.

Q. And you continued aft on the port side of the vessel, did you? A. Yes sir.

Q. Crawled up over the railing on the deck that the light was on? A. Yes sir.

Q. Did you see the light close to it? A. Yes sir.

Q. How far away?

A. I should judge about ten feet.

CROSS EXAMINATION.

Q. (MR. HUGHES) And you say you had been in the forecastle cabin about ten minutes before the collision? A. Yes sir.

Q. Where were you before that?

A. I was up on top on the fidley at the engine room, shifting the ventilators.

Q. That would be on what deck?

A. That is aft of the bridge on the maindeck, sir, amidships on the steamer.

Q. How did you get from there to the forecastle?

A. I came down a ladder and walked forward on the port side, in underneath the two bridges and on the lumber.

Q. Then you went under the two bridges and then when you came to the lumber climbed up over the lumber?

A. No, there is a step there, I walked up a step about the height of this, walked up onto the lumber and then forward down into the forecastle.

Q. That is to say, when you were forward you had—after you got in front of the bridge you had to go up on top of the lumber and across along the lumber, over

the deck cargo, and then get down to the forecastle head, didn't you?

A. Well, after I came down off the fidley I walked out on the main deck, that is, under the main bridge, up about four steps—a little ladder with four steps on it, stepped off onto the lumber and walked forward on the port side and then down into the forecastle.

Q. You stepped up on top of the lumber, I say, and walked along the top of the lumber? A. Yes sir.

Q. Now, then, did you go along the port side the same way when you went over there? A. Yes sir.

Q. There was a pretty bad list so that you had to walk along the port side and hold fast?

A. I don't call it a bad list, no sir; it was a bit of a list.

Q. Well, you walked along the port side? A. Yes.

Q. Held fast to that rope that was—

A. (Interrupting) That was after the accident. I didn't hold fast to nothing before the accident. I walked without holding onto anything.

Q. Oh, your knee was hurt in the accident?

A. Yes sir, a barrel of oil struck me.

Q. When you walked across did you walk along the port side, when you first went across to go down into the forecastle? A. To call the watch?

Q. Yes. A. Yes, I walked on the port side.

Q. Walked along the port side because it was the upper side of the ship?

A. The other side was ashes on and I naturally went on this side.

Q. For whatever reason, you went along the port side?

A. Yes, what you call the weather side. The seamen always calls the weather side.

Q. What kind of a railing was there along there?

A. Railing? The railing of the ship.

Q. There was no railing of the ship on top of the cargo? was there.

A. No, but there was a life line there, I should say a two-inch rope.

Q. That is what I wanted to get at. What was that life line made fast to?

A. Made fast to the forerigging on the port side, one end of it, and the other end was made fast to the bridge.

Q. Well, it was fastened to those stanchions also?

A. Not every one of them, every other one.

Q. Fastened as you went along to some of the stanchions? A. Yes sir.

Q. So that it ran along parallel with those stanchions? A. Yes sir.

Q. And as you would walk along there you could take hold of that life line if necessary? A. Yes sir.

Q. Now, do you know what time it was when you went in there to call the men, by your ship's time?

A. I judge it was about twenty minutes to 8.

Q. When you went in and called them?

A. Well, no, it was about 7:30.

Q. How do you know?

A. The lookout sang out "All's well"—struck three bells just as I got forward half way between the bridge and the forecastle.

Q. You did not look at your time, though?

A. I didn't have any time.

Q. You didn't? Well, you don't know just how long you had been in there before this collision occurred?

A. Well, the way I found out, you know, I was in there, I heard the fellow strike the bell and report the lookout, the light, and then I inquired what time he struck them and he told us twenty minutes to eight.

Q. You are governed, then, by what somebody else told you as to the time they struck?

A. Well, I went up and reported to the captain I was unfit for further duty, and I seen the clock.

Q. After the collision?

A. Yes sir, after the collision.

Q. What time was it when you saw the clock?

A. About eighteen minutes to nine.

Q. Eighteen minutes to nine?

A. Eighteen minutes to nine, I should say.

Q. Now, did you hear any whistles while you were in the forecastle cabin, or did you pay any attention to them?

A. Yes, I heard two single—I heard one whistle

and then another one shortly afterwards, then three, but I didn't pay no attention to them much. I could not state whether it was the "Strathalbyn" or some other vessel that blowed.

Q. But as soon as the collision occurred you rushed out? A. Yes sir.

Q. And then you climbed up onto the deck cargo, and your knee being hurt you crawled on your hands and knees to the—

A. (Interrupting) To the port side.

Q. To the port side because it was high. A. Yes.

Q. And then you walked along by the rope?

A. Yes sir.

Q. Or crawled along?

A. Crawled along, leaning over the railing, you know; walked along stanchion by stanchion until I got—

Q. (Interrupting) You would catch hold of the rope? A. Yes.

Q. Did you walk or did you—

A. (Interrupting) I dragged myself along the best way I could.

Q. Could you stand on that leg at all?

A. Well, I managed to get along.

Q. What I am trying to get at is whether you were down on your hands and knees as you went along the port side?

A. After I got along on the port side to the life line, I managed to stand and go aft and report to the captain.

Q. And by the aid of the life line you walked along the port side— A. Yes sir.

Q. Back. Now, when you got over to the port side to this line and faced back, did you see the port light?

A. Yes sir.

Q. You could look right straight back at it, could you? A. Yes sir.

Q. And see it? A. Yes sir.

Q. And it was right in your face all the way as you walked back along that line? A. Yes sir.

Q. About how far in front of it were you when you first saw it? A. About ten feet.

Q. Well, then, you must have gone diagonally across the deck cargo? A. Yes.

Q. To get to that life line? A. Yes.

Q. Did you have anything to do with lighting these lights or taking care of them? A. No sir.

Q. You hadn't paid any attention to the lights before that time at all?

A. Well, it was about seven o'clock, as near as I can judge, on that side, and I was urinating, I see the red light burning on that side. I came up to get a little air and took a look around.

Q. You usually go to the weather side for that purpose, do you?

A. No, it was not blowing hard enough, it didn't make any difference which side.

RE-DIRECT EXAMINATION.

Q. (MR. HAYDEN) When you heard this lookout, what were the words that you heard that lookout sing out as you were going forward?

A. "All's well", sir.

Q. Did you hear him say anything more?

A. That is all.

Q. Did he say anything about the light?

A. Not a word, sir.

RE-CROSS EXAMINATION.

Q. (MR. HUGHES) Do you know whereabouts this life line on the port side was fastened to the bridge?

A. Well, I should judge between the two bridges—no I would not answer that question; I don't know.

Q. Well, somewhere between the two bridges?

A. I don't know where it was fastened. All I know it was fast.

(Witness excused.)

(The hearing was here adjourned until some time agreeable to counsel.)

Transcript of Testimony, at hearing February 14-16, 1912, on behalf of libellant.

Further hearing pursuant to order of Court, before R. J. McMILLAN, Commissioner, for taking testimony.

The libellant appearing and being represented by its proctors, Messrs. HUFFER, HAYDEN & HAMILTON, and the claimant and respondent being represented by their counsel and attorneys, Messrs. BOGLE, GRAVES, MERRITT

& BOGLE, and Messrs. HUGHES, McMICKEN, DOVELL & RAMSEY.

Whereupon the following witnesses were called and gave testimony in behalf of the libelant, to-wit:

JAMES BURNS, being produced and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

Q. (MR. HAYDEN) What is your name, please?

A. James Burns.

Q. What is your business?

A. I am captain of the "Flyer".

Q. How long have you been master of the "Flyer"?

A. About six months.

Q. How old are you captain? A. Forty-four.

Q. How long have you been following the sea?

A. About 28 or 30 years.

Q. How long have you been master. A. About ten.

Q. Were you master of the steamer "Flyer" on the night of the collision between the "Strathalbyn" and the "Virginian"? A. Yes sir.

Q. Did you see the "Virginian" and "Strathalbyn" that night? A. Yes sir.

Q. Where did you first see the "Virginian"?

A. Around Alki Point.

Q. Which direction were you coming from?

A. I was coming from Seattle to Tacoma.

Q. And which direction was the "Virginian" coming? A. From Seattle to Tacoma.

Q. Did you see the "Virginian" before you got to Pully Point? A. Yes.

Q. What manoeuvres did you execute in passing the Virginian? A. I passed under her stern.

Q. Did you give any signals?

A. Yes, one whistle in passing, and he answered me back one whistle.

Q. At what place did you pass the "Virginian"?

A. Right off Pully Point.

Q. Where did you first see the "Strathalbyn"?

A. Just about Pully Point.

Q. And where was the "Strathalbyn" when you saw her?

A. I would judge she was half way between Robinson Point and Pully Point.

Q. What did you notice on the Strathalbyn?

A. I noticed her range lights.

Q. Did you have the "Strathalbyn" in sight all the time? A. Yes sir.

Q. Until you had passed her and until the collision?

A. Yes sir.

Q. How far from the "Virginian" did you pass her?

A. About 200 yards or more.

Q. On which side?

A. The port side; about 250 feet or more—not yards.

Q. On whose port side? A. The "Flyer's" port side.

Q. How far were you from the "Strathalbyn" when you passed her?

A. I have been speaking of the "Strathalbyn".

Q. No, I am talking about the "Virginian".

A. Oh, the "Virginian." I was probably a quarter of a mile or more from the "Virginian" when we passed the "Strathalbyn".

Q. How far were you from the "Virginian" when you passed the "Virginia" abeam of Pully Point?

A. Oh, probably 250 feet.

Q. Could you make out the loom of the hull of the "Strathalbyn" as you were approaching her?

A. Yes sir, I could make her out; I could see the lights and make out the hull by the lights.

Q. How far away would that be?

A. About 250 feet; we passed abreast of her that far.

Q. Did you see the loom of the "Strathalbyn's" hull, or see her light, more than 250 feet away?

A. I saw the lights, but I did not notice the hull until she got abreast of me.

Q. Did the "Strathalbyn" give you any signals?

A. Yes.

Q. What were they?

A. One whistle, and I answered them.

Q. How far from the "Strathalbyn" were you at that time?

A. That would be hard to judge. I couldn't tell.

Probably a half or a quarter of a mile. something of that kind.

Q. What kind of a night was it?

A. It was pretty clear.

Q. Was there any fog? A. No, I did not see any.

Q. What kind of a night was it for the sight of lights? A. A pretty fair night.

Q. Did you hear the "Strathalbyn" give any signals to the "Virginian"?

A. Yes sir, I heard them blow one whistle, and then the second whistle, and that is all I heard; those two whistles.

Q. Did you hear any danger whistles?

A. Oh, yes, I heard that, yes sir; that is what made me turn around and go back.

Q. Did you turn around immediately and go back on hearing the danger whistles? A. Yes sir.

Q. Did you hear any whistles from the "Virginian"? A. No.

Q. Did any danger whistles sound from the Virginian at all?

A. No sir; they may have blown them, but I did not hear them.

Q. On which side of the "Strathalbyn" did you approach on coming back. A. On the starboard side.

Q. What did you do after you got back?

A. I hailed both vessels and asked if I could do anything for them. I went from the "Strathalbyn" to the "Virginian" and then back to the "Strathalbyn". Captain Beecher asked me to do it.

Q. And they did not need any assistance from you?

A. No sir.

Q. And you went on to Tacoma?

A. I went on to Tacoma, yes sir.

CROSS EXAMINATION.

Q. (MR. HUGHES) Do you know what time it was by your ship's time when you passed Pully Point?

A. Yes sir, it was 7:55.

Q. Did you take that time yourself?

A. Yes, I took it off.

Q. Was that just after you passed the "Virginian"?

A. Yes sir; I put the time down. Both vessels were off Pully Point together.

Q. Of course there was some little period, half a minute or so, in which you might consider yourself off Pully Point? A. Yes sir.

Q. Perhaps a minute that you would be passing?

A. Yes sir, that, or maybe two minutes.

Q. Now, as you approached Pully Point, the "Virginian" was just ahead of you, before you got to Pully Point? A. Yes sir.

Q. Before she got to Pully Point? A. Yes sir.

Q. And you were overtaking her? A. Yes sir.

Q. Did you change your course to pass on the starboard?

A. Yes sir. I changed to pass under the stern before we got to her.

Q. Which way did you change?

A. I ported my helm.

Q. About how much did you go off to starboard?

A. I steered southwest about two points and a half, or something of the kind; a point and a quarter, or a point and a half.

Q. Did you swing off to pass? A. Yes, to clear her.

Q. And passing under her stern, you kept steering further away from her? A. Yes.

Q. Did you keep on that course until after or about the time you passed the "Strathalbyn"?

A. No sir; when I got far enough from the "Virginian" that I could run my own course, I hauled back on my own course.

Q. But did you have the "Strathalbyn" pretty near abreast of you when you hauled back on your course to Robinson? A. No sir.

Q. Before that?

A. Yes sir; quite a while before that.

Q. You had got about an eighth of a mile beyond the "Virginian" when you got this whistle from the "Strathalbyn"?

A. Something like that; probably more; about seven points of her stern when the collision occurred.

Q. That is the Virginian? A. Yes.

Q. But I mean when you first got the whistle from the "Strathalbyn", the "Virginian" was about how off your stern? A. Six or seven points.

Q. Then you had swung pretty well off before you changed back on your course?

A. The course I steer, from Alki Point—I hauled the ship over this side to clear the stern, and when I thought I could haul back on my regular course, I did so, southwest by south, half south, and steered for Pully Point, and then I saw the "Strathalbyn" and they kept on that course and did not shift at all. I think I had passed the "Strathalbyn", and before I had hauled back on my course from Pully Point to Brown's Point, which is southeast, half south.

Q. It was as you passed the "Strathalbyn" that you hauled back? A. Yes sir.

Q. So you kept your course which you took for the purpose of passing the "Virginian" until you passed the "Strathalbyn"? A. Yes sir.

Q. And that was taking you off to the starboard all the time?

A. Yes sir. Of course I had to haul up more to the regular course to clear the point.

Q. You say you saw the range lights of the "Strathalbyn"? A. Yes sir.

Q. Before you heard her whistle? A. Yes sir.

Q. About how long after?

A. Oh, not very long, I don't know just how long.

Q. What else did you see?

A. I saw the lights on the mainmast and head light.

Q. You saw two lights apparently aloft on the ship? A. Yes sir.

Q. What kind of lights were they?

A. Lamps, I guess; the regular range lights.

Q. White lights? A. Yes sir.

Q. Bright or dim?

A. Regular lamp lights; oil lights.

Q. Did you have any difficulty in sighting them and determining what kind of lights they were?

A. No sir, I never thought of it at all.

Q. You knew which way she was going?

A. Yes, by the lights, that is all.

Q. You assumed from those two lights that she was coming towards you, and also from the fact of giving one whistle? A. Yes sir.

Q. Which way did she bear from you when she gave that whistle?

A. We were heading that way and she was heading this way.

Q. Now, that is apparent to us, but you see it does not show on the record.

A. Well, we were heading this way.

Q. How would they be with reference to your course?

A. It would be jibed on the opposite course until we headed further southeast, and he was heading about northwest by north, something like that.

Q. Well, suppose these represent two points, and that would be Robinson and this Pully Point; now indicate your course?

A. We were headed around this way (indicating).

Q. You swung out this way, and now when you get to a certain point where you think you hauled back, project the line? A. In this way.

Q. Well mark it? A. That is all right.

Q. Now your course would be what?

A. About southeast.

Q. Now in passing Pully Point, up to the time you changed your course, what would be your course here?

A. Southeast by south, half south.

Q. Now then mark about what would be the course of the other vessel which was coming towards you, and give us nearly as you can estimate what his direction would be?

A. It was coming this way; when I could see him he was heading down here somewhere (indicating); that would be northwest by north, about half north, as near as I could judge.

Q. That is only approximate, but this line would be as nearly as you can estimate would be the "Strathalbyn's" course when you first saw her and up to the time she blew her whistle? A. Yes.

Q. And this represents the "Flyer"? A. Yes sir.

Q. Now this represents the direction of the "Strathalbyn" and this the direction of the "Flyer"; is that right? A. Yes.

WHEREUPON sketch was marked as respondent's Identification No. One.

Q. Now these two white lights which you saw on this ship which gave you one whistle, were the only lights? A. That is all I saw, yes.

Q. You answered her whistle? A. Yes sir.

Q. And as you proceeded on your course and she on hers, she drew abeam of you? A. Yes sir.

Q. Now when she was about abeam of you was the time that you heard her give another whistle?

A. Yes sir, somewhere there.

Q. She was either abeam or so nearly abeam that you did not take her next whistle to be intended for you at all? A. Oh, no.

Q. You assumed it was intended for the "Virginian", which you had passed? A. Yes sir.

Q. The "Strathalbyn's" lights were bright and clear so that you knew she was ahead? A. Yes sir.

Q. And that is why you assumed she was blowing the second whistle for the "Virginian" and not for you?

A. Yes sir.

Q. When she was abeam of you how far do you think she was off?

A. Oh, two hundred or two hundred and fifty feet.

Q. Wasn't she further?

A. She may have been further or closer, I cannot say.

Q. You say you could not see her red light?

A. No, I could not; if it was there I did not see it.

Q. And you did not see it at any time as you passed by her? A. No sir.

Q. About how long would you say it was after she blew that second whistle when she was about abeam of you until you heard her blow another whistle; the first that you knew was not for you was when she was about abeam of you? A. Yes.

Q. And you heard her blow another which you remember about? A. Yes.

Q. And that is all you remember except the danger whistle? A. Yes sir.

Q. How much time was there between those two single blasts which you say she blew after you passed her?

A. Time enough to give a man a chance to answer; I don't know just how long.

Q. Probably a minute or more?

A. Yes, it might be more.

Q. And about how long after she blew the second whistle would you say it was before you heard the danger signal? A. It was not very long.

Q. You were going on your course at about what rate? A. Oh, she makes about $14\frac{1}{2}$ knots.

Q. You had got how much by her when you heard the danger signal?

A. Probably half a mile or more astern.

Q. Did you happen to look back and notice the Virginian at the time you heard this danger signal?

A. Yes, sir, I looked back there.

Q. And you say you could see her?

A. Yes, sir, I had to see her to find her.

Q. Oh you had not turned around before you heard the danger signal? A. No sir.

Q. You looked back and saw both ships?

A. Yes sir.

Q. About how far apart?

A. Three-quarters of a mile back of me.

Q. About how close to each other?

A. Oh, I could not see that.

Q. You could not see well enough to see how close they were. A. No, sir.

Q. Did you see them come together in collision?

A. No, sir.

Q. Did you hear the collision? A. Yes.

Q. Did you stop your ship before you heard the collision?

A. No, sir, after I heard the collision I stopped and turned around.

Q. Did you stop immediately after hearing the collision? A. Certainly.

Q. How long would it take to bring your vessel to a stop and get it turned around and start back?

A. We can stop her in about thirty seconds.

Q. And get around?

A. I could get her around in about five minutes.

Q. Then you had to go back probably a mile to the ships? A. Yes, more or less.

Q. So about how long would you say it was; was it ten minutes after the collision before you got back to the Strathalbyn? A. No, it would not be that much.

Q. It would be in the neighborhood of that?

A. Well, by the time she got turned around, she would be there. She takes a big swing.

Q. It would take you probably ten minutes?

A. Well it may have taken that long.

Q. You first came up to the Strathalbyn?

A. Yes, sir.

Q. How was she lying?

A. She was lying starboard side towards me as I went back there.

Q. About what course were you steering when you approached her and found her starboard side towards you? A. Somewhere about northwest.

Q. Was she then practically lying across your course? A. Yes, sir.

Q. That is, this ship was about at right angles to your course as you approached, so that you approached his starboard beam. A. Yes.

Q. And how near did you come to the Strathalbyn?

A. Oh, pretty close; probably 50 or 75 feet or less.

Q. When did you notice his starboard light?

A. When I came up to her.

Q. Did you notice it before you got close?

A. Oh, yes; I saw it.

Q. How near do you think you were before you saw the starboard light?

A. I saw it when I turned around; it might have been 100 feet or 75 feet; something like that.

Q. Then you spoke to the pilot of the Strathalbyn?

A. Yes, sir.

Q. And asked if there was any injury or if you could render any assistance? A. Yes, sir.

Q. Then what did you do?

A. I went to the *Virginian* and asked the same.

Q. How did the *Virginian* lie with reference to the *Strathalbyn*?

A. They seemed to be both lying in the same position.

Q. The *Virginian* was on the Seattle side?

A. No; on the Vashon side, and the *Strathalbyn* was on the mainland side.

Q. And the *Virginian* was the other side and beyond the *Strathalbyn* from you when you approached?

A. Yes, sir.

Q. But not heading in the same direction?

A. Something in the same direction; swung around.

Q. About how far from the *Strathalbyn* was the *Virginian* when you got up?

A. Couple of hundred feet, or one hundred feet; something like that.

Q. Wasn't she more than that?

A. Well I could not say.

Q. You passed around the bow of the *Strathalbyn*?

A. No, on the starboard side, not around the bow.

Q. But to go to the *Virginian*?

A. I passed around this side; I came along on the starboard side, and went to the *Virginian*.

Q. Did you pass by the stern of the *Strathalbyn* or around the bow? A. By the stern.

Q. You passed under the stern and went over to the *Virginian*? A. Yes, sir.

Q. And you were going very slowly? A. Yes, sir.

Q. And you stopped and hailed the *Virginian*?

A. Yes, sir.

Q. How close were you to the *Virginian*?

A. Fifty feet more or less.

Q. Did you notice the *Strathalbyn* there while you were talking to the pilot of the *Virginian*?

A. I did not look back at her until I came around to find her again.

Q. At that time you would be on the port side of the *Strathalbyn*?

A. No, sir; she would be astern of me.

Q. And when you left the Virginian you went back to the Strathalbyn? A. Yes, sir.

Q. And hailed her again? A. Yes, sir.

Q. What conversation occurred?

A. I asked Captain Beecher if he wanted assistance and he said no; that he thought he could make Tacoma all right. So I went to Tacoma, and came back and spoke him again off Brown's Point, or Robinson's Point.

Q. When you hailed Captain Beecher the second time, where were you with reference to the Strathalbyn?

A. Right abreast of her; right close to her, on the starboard side.

Q. Was she swinging around more towards Tacoma?

A. He had her on her course by that time, it appeared to me.

Q. So that if he was athwart your course he must have been swinging around in the meantime and moving slightly towards Browns Point? A. Yes, sir.

Q. When you came back,—you say you went on to Tacoma and then returned? A. Yes, sir.

Q. Where did you pass him then?

A. Just abreast of Robinson's Point, on the Tacoma side.

Q. That is this way from Robinson's point a little?

A. Yes.

Q. On which side did you pass him then?

A. Passed his starboard.

Q. Did you pass between him and Robinson's Point? A. Yes, sir.

Q. How near to him?

A. Probably one hundred feet or more; well, hailing distance; I talked to him.

Q. He said he was getting along all right? A. Yes.

Q. You stopped to inquire?

A. Oh, yes, I stopped, sure.

Q. When you saw him each time, he was just about abeam of you? A. Yes, sir.

Q. That is the Strathalbyn? A. Yes.

Q. Both times, when you passed him first, and the second time, off Robinson's Point? A. Yes.

Q. You saw his lights when you had him nearly abeam, and the last time you stopped and talked to him?

A. Yes; I talked to him both times.

Q. Now going back: When you first saw the Strathalbyn, how much was she off your port bow?

A. Oh, I guess she was about two points.

Q. Off your port bow? A. Yes, sir.

Q. You have testified here, as I understood, when you had her abeam, in passing the Strathalbyn the first time you thought she was not over two or three hundred feet off. Before the inspectors you gave your testimony, did you not?

A. Yes, and I want to say the same here as there.

Q. But I want to call your attention to this, to aid your present recollection? A. Yes.

Q. You were asked by one of the inspectors this question: "Did I understand you to say you thought it was about a half a mile away when you were abeam of her?"

A. Oh, well, that is astern, as to that distance.

Q. In this testimony, before the inspectors, you gave this testimony: "Which direction was the Strathalbyn from you when she was first reported to you?"

A. She was about two points on the port bow; two points and a half. Q. About two points? A. Yes, sir."

How far ahead do you think?

MR. HAYDEN: I object to this as leading and suggestive, and not proper cross examination; attempting to read something into this record, without giving the captain a chance to testify.

MR. HUGHES: Now with the understanding that the objection may run, and in order that the question may be complete, I want to call your attention to testimony given and then propound a question based upon it.

Q. You testified before the inspectors, did you not, as follows:

"Q. Which direction from you was the Strathalbyn when she was first reported to you? A. She was about two points on the port bow, sir; two points and a half. Q. About two points? A. Yes, sir. Q. And how far ahead do you think, how far ahead of the Virginian or yourself at the time did you pass the Virginian? A.

How far was the Strathalbyn off? Q. Yes, how far away was the Strathalbyn? A. Well, I should judge she might be about a mile and a half or more. Q. You don't remember just,— A. No, sir. Q. (Continuing) what time you passed the Strathalbyn and just what time you passed the Virginian? A. I know what time I passed the Virginian. Q. You knew that because you took your time there at Pully? A. Pully Point, yes. Q. But you would not know just what time you passed the Strathalbyn? A. No, sir. Q. You think she was off about two points on your,— A. On our port bow, yes, sir. Q. And you did not swing back to your course to parallel them, but kept off,— A. Clear. Q. (Continuing)—more to the right? A. Yes, sir. Q. Now did I understand you to say that you thought she was about half a mile away while you were abeam of her. A. Which, the,—Q. The Strathalbyn? A. Yes, sir. Q. And even there you could not see her red light? A. No, sir." Now is that correct?

A. That is right. Positions, a man cannot judge.

Q. On a dark night of that kind, it would be next to impossible to estimate distances with any degree of certainty, wouldn't it? A. Yes, sir.

Q. Did it rain shortly after that?

A. Yes, I don't know how long after, but it was raining when I got back.

Q. About how far ahead of you and off your port bow would you say the Strathalbyn was when you first saw her that night?

A. I could not judge that; it was quite aways, probably a mile, mile and a half or more; I could not say how far, from the time I first saw her until we met. I saw her when we passed Pully Point. That is why I kept on my course, to clear him.

RE-DIRECT EXAMINATION.

(By MR. HAYDEN.)

Q. You said in response to Mr. Hughes' question that you were watching the Virginian when they came together. Did the Virginian appear to swing to the eastward?

A. I could not say I saw them; I saw them afterwards. I did not see them come together.

Q. But at the time you were looking at the Virginian, did she appear to swing to the eastward?

A. I could not say; I did not pay much attention. When I looked back, the only thing was to get back there.

Q. You say at the time you got back to the Strathalbyn and the Virginian they were lying practically on parallel courses?

A. Pretty near, as far as I could judge.

Q. In what direction were the vessels headed at that time?

A. They were headed I guess about north, northeast; something of that kind; both.

Q. When you met the Virginian and you say you saw her on the course which you have indicated on this Respondent's Identification Number 2; that course is approximate is it? A. Yes, sir.

Q. You would not say it was accurate?

A. No, I would not say it was accurate, but she must have had some reason for heading that way.

Q. If he had ported his wheel when he blew his signal to you, that would probably account for it?

A. Yes, sir.

MR. HUGHES: How is that?

A. He asked me if he had ported his wheel for me, if that would account for his position, and I say that might account for it, but I do not know of course what he might do.

Q. (MR. HAYDEN) Do you remember telling Captain Beecher and myself that you noticed the Virginian, and she appeared to be swung to the east just before the collision, when coming over on the Flyer a few days after the collision?

A. I don't know. I don't remember anything of the kind.

Q. (MR. HUGHES) I wish you would examine this statement and say if it was made by you and signed and sworn to by you?

A. Well there is some mistake there somewhere.

Q. That is your signature? A. Yes, sir.

Q. You signed it? A. Yes, sir.

Q. Where is the mistake? A. Here (indicating).

Q. Well, that was the statement you made, wasn't it? (No response.)

Q. You read that over and signed and swore to it?

A. Yes, sir.

MR. HUGHES: I offer the statement.

WHEREUPON said document was marked as Respondent's Exhibit Number 2.

Q. (MR. HAYDEN) Is there anything wrong with this statement? A. I don't think so.

Q. But you said to him that there was something incorrect?

A. Yes, at the bottom, I don't remember seeing that about the deck load, and not seeing the lights.

Q. Read the part you consider wrong?

A. About the deck load of lumber on the forward deck, and extending out to the rail on either side, and "range lights on the Strathalbyn were dim, being well off, was not able to see them prior to the time the Flyer gave the passing signal ahead."

Q. Is that incorrect?

A. Well, I don't remember making such a statement as that. I don't know anything about her deck load or anything of the kind.

Q. And you never did know?

A. No; I could not see the ship's deck.

Q. Did you read it over carefully?

A. Well I don't remember seeing that, or seeing anything like that. I did not know anything about the deck load. I could not see it before I got to the ship.

Q. You did not read it over carefully before you signed it, did you?

MR. HUGHES: That is objected to as leading?

A. Well if I did, I would contradict that.

RECROSS EXAMINATION.

Q. (MR. HUGHES) When you came back to the ship, you came up to within fifty or seventy-five feet?

A. Yes, sir.

Q. And then you could see that she had a deck cargo? A. Yes, sir.

Q. A high deck cargo forward? A. Yes, sir.

Q. And that is what you say here?

A. Yes, but not when I first came up.

Q. Well, that is not what is said?

A. That is the way it seemed to me.

Q. If you observe, it says after the collision you hailed the Strathalbyn, coming up on the starboard, and saw the dim starboard light and saw the high deck load of lumber on the forward deck?

A. Oh, yes, that is all right, but when I came up on her I didn't see the light; I saw the ship's lights along way ahead, before the passing signal.

Q. It does say here that the lights were dim and they were well off? A. They were a common oil light.

Q. (MR. HAYDEN) And they appeared just like the common ordinary oil light?

A. Yes, sir, just the same. I did not want to say anything here that I did not know anything about.

(Witness excused.)

MR. WALTER S. MILNOR, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

Q. (MR. HAYDEN) What is your name?

A. Walter S. Milnor.

Q. What has been your business, Captain?

A. Licensed master of ocean going vessels.

Q. How old are you now?

A. I stopped having birthdays at fifty; I am over fifty.

Q. How long have you been going to sea?

A. I was 32 years at sea.

Q. Were you on the steamer Flyer on the night of the collision between the Virginian and the Strathalbyn?

A. I was.

Q. Will you tell us what you saw and heard in connection with that collision, in your own way?

A. I was seated in the cabin of the Flyer, on the starboard side, abaft the midships, when I heard her blow one whistle. I had been reading a paper and was just about through. On hearing this whistle I leisurely folded up the paper and put it in my overcoat pocket, and leaving my coat in the seat went out on the port side of the Flyer to see what we were passing. We then had overhauled the Virginian and were passing. I then

heard one whistle from another vessel which the *Flyer* answered. On account of my position which was abaft the midships, all about midway between the midships and port quarter of the *Flyer*, my view and idea of directions and distances may not be accurate. Another thing, I came outside the cabin into the darkness with my eyes blinded to some extent by the cabin lights, and although I tried to see, my vision was to some extent affected by the lights shining from the cabin windows; so that as to what I subsequently saw, I can only testify to my best impression, judged from the adverse circumstances under which I was viewing the thing.

Now, for instance, regarding the distance from Pully Point, I thought as I came out that the *Virginian* was standing about three-quarters of a mile off the point, and we were about three-eighths of a mile from the *Virginian*, diverging—we were on a divergent line from that of the *Virginian*, divergent to the route; we were going starboard under port helm.

At the time I first heard the *Strathalbyn* whistle I judge we had the *Virginian* about three-eighths of a mile on our port quarter, and the *Strathalbyn* half a mile on our port bow. From my point of view, she would show a greater distance, that is more points off on our port bow than actually would appear from the pilot house of the *Flyer*. We answered the *Strathalbyn's* whistle and then heard another whistle from the *Strathalbyn*, evidently intended for the *Virginian*. It is pretty hard to keep from getting confused under circumstances of that kind, but to my best recollection and impression, the *Strathalbyn* gave three distinct port whistles for the *Virginian*, none of which were answered; then came about seven short whistles, two or three more from one boat and four or five from the other, and then the crash. As near as I can judge now, I should say there was about three minute interval from the time we heard the first signal of the *Strathalbyn* for the *Virginian* until the crash. Immediately following the crash I went up to report to Captain Burns that I was on board, and if he needed me to call on me. As we approached or drew nearer the *Strathalbyn*, before the collision, I saw two white lights, but one of

those lights was low down on the water, and I think—but you don't want what I think—at least I saw no port light. After we hauled around and drew near the Strathalbyn, we came on her starboard side.

MR. HUGHES: After the collision?

A. That is after the collision. We turned around to go back, and Captain Burns asked if she needed assistance and they replied that they did not think so. At that time, her starboard light and mast light were burning with ordinary brilliancy. We hauled alongside the Virginian and asked her if she needed help, and she replied that she did not. Her lights were burning brilliantly. We then overhauled the Strathalbyn again and got the word back that they were going to try to make Tacoma, and did not think they needed any help. They also asked what vessel ran into them. When we drew up alongside the Strathalbyn the first time, I noticed she had a deckload of lumber forward between her fore-castle head and her bridge.

MR. HUGHES: That is after the collision?

A. Yes, after the collision.

When we hauled alongside again I got a closer view of the lumber and noticed that this deckload of lumber appeared to be within six or eight inches of her bridge deck, and some stanchions holding the lumber ran from,—well, it would be impossible to say, but my impression would be from fourteen to eighteen inches above her deck load.

When we ran alongside the second time, she was in the neighborhood of Robinson's Point and had a heavy list,—it must have been seventy degrees to starboard. The collision actually occurred at exactly 8:05 by Seattle time, and approximately midway between Pully and Robinson's Point. When the crash occurred I hauled out my watch and held it up by the window of the cabin to see exactly the time. I was carrying Flyer time,—Seattle time.

(BY MR. HAYDEN)

Q. You were accustomed in your previous experience as a master to the use of oil lamps for signal lamps?

A. Yes, sir.

Q. Were these lights you saw, the masthead light,

burning with the ordinary brilliancy of an oil lamp?

A. I thought so; the masthead light and the starboard light. I did not see the port light. The second light which I saw I think came from the forecstle, shining through one of the foc'sl ports. There were two white lights and I think one shown from one of the foc'sl ports.

Q. I do not think you have given us your idea of the distance between the Strathalbyn and the Flyer at the time you heard the whistles?

A. Taking the line on which the Virginian and Strathalbyn were steaming, and taking the line on which we appeared to be steaming, from my point of view I would judge we were about three-eighths of a mile to the starboard of them.

MR. HUGHES: Q. That is of the line of the other two ships?

A. Yes, sir. The night was very dark, no fog, rain beginning to fall while I was still on deck, about the time we were overhauling the Strathalbyn the second time.

Q. About what time was that; you mean when the two vessels were near together?

A. We only hailed the Strathalbyn then; I mean the second time we hailed her, after the collision.

Q. You were not aboard of the Flyer when she went back?

A. No, sir, I was not aboard of her on her return trip to Seattle.

Q. Do you remember having seen the Virginian about the time of the accident,—just prior to their coming together?

A. I saw her when we had overhauled her.

Q. Did you see her before the two vessels came together? A. Yes.

Q. Did you notice the Virginian and whether she was swinging?

A. I could not tell whether she was siwnging or not. We ourselves were going on a divergent line, and it would be impossible almost to tell. The fact of our being divergent from theirs would cause lights,—the relative position of her lights to vary to our vision, and

whatever impression I may have had at the time or might have subsequently formed, could not have been based on any actual view of her change of course.

Q. When you passed the Strathalbyn, how did her course appear to you to be; did it seem to be about parallel?

A. I do not know what course she was steering.

Q. You could not tell that from your position?

A. Oh, no, I could not tell that. Had I been in the pilot house throughout the whole voyage or for some time before they came together, my testimony may have been different, but I am telling what I saw from a disadvantageous position in which I was standing.

CROSS EXAMINATION.

(BY MR. HUGHES)

Q. They have asked you whether the Virginian appeared to be swinging. Now as a man of experience in navigation I want to ask you this question. If two vessels are approaching each other in a dark night, and one should keep its course and the other should swing on her helm, either to port or starboard, it would be very difficult for any onlooker from another vessel, or even from one of those vessels, to see from merely looking which ship changed its course?

A. Yes, sir, very difficult.

Q. A person for instance on a ship that was changing its course, not knowing that the helm swung, might assume that the other ship changed?

A. Yes, sir, just like sitting in a train, you may be stopped and another train pull out and you don't know which train is moving.

Q. Was the Strathalbyn about or nearly abeam of you when she gave the first of those port vessels; you say you heard two given for the Virginian?

A. No, sir, she was if I remember correctly,—she seemed to be about half a mile on our port bow; that is taking two parallel lines that each was sailing, there was an actual distance of about a half a mile between our bow and her bow.

Q. She was far enough advanced on her course, near enough opposite you, so that it was apparent to

you and would be to any one else that her whistle was not intended for the Flyer. A. Yes, sir.

Q. And would be intended for the other vessel whose lights were behind?

A. Yes, sir. We had already answered her signal.

Q. And had advanced far enough on your opposite course so that she would have no occasion to blow for you?

A. It was my belief she was signaling the Virginian.

Q. About how far would you say she passed off your port side? A. Three-eighths of a mile.

Q. You think that much?

A. I think so, yes. You understand in my coming out from a brilliantly lighted cabin, and I am testifying under a disadvantage.

Q. I understand that of course. You would not be able to estimate distance with the same degree of accuracy as if you had looked out from the darkness. That would affect your ability to estimate distances, but after once picking up a light, you would have no difficulty from that time in seeing and following the light? A. Not a bit.

Q. In your position as a navigator, where you were, you should have seen her port red light if it were burning in the proper place?

A. I should have seen it unless my eyes were too badly blinded by the light from the cabin windows. Between my range of vision and the Strathalbyn these cabin lights were shining through the window.

Q. You were outside? A. Yes, sir.

Q. And the lights were behind you?

A. Not before the collision.

Q. As the Strathalbyn passed by you, she passed on your port side? A. Yes, sir.

Q. You were standing on the port deck and the lights were behind you?

A. Oh, yes, I understand. I did not see her port light.

Q. Another thing I want to ask you as an experienced navigator; you could see the red light under such

conditions than a white light; you would have less difficulty in seeing a red light than a white light?

A. I don't think so. I think the white light is visible at a greater distance than a red light.

Q. That is if its power is the same, but the red light would be more easily discerned with the same power and at the same distance than the white light?

A. I do not think so.

Q. Isn't the use of the green and red light partly because they will attract attention at sea in the darkness.

A. In approaching a vessel at sea we always pick up her masthead light before we pick up her sidelights.

Q. Because it is a more powerful light?

A. Not necessarily.

Q. But generally?

A. I do not know it. I have many times seen the founts and burners interchanged.

Q. Do you remember what the regulation required, as to distance at which the masthead light shall be visible?

A. I won't be sure whether it is two miles or not; I have a copy in my office.

Q. Isn't it five? A. That may be.

Q. Do you remember the distance at which the red and green lights are required to be visible?

A. I do not know now.

Q. That is three, isn't it? A. I do not know.

Q. Or rather two miles?

A. It is two miles for the sidelights and five for the headlight.

Q. Your statement has been a very clear one and I think an impartial one,—attempted to be, and I do not care to take a long time in cross examination. There are probably one or two matters covered in this statement here, not fully covered in your examination. I will ask you whether this statement was dictated by you and is correct. I am not suggesting that it offers any conflict, but it may cover some matters and may save my cross examination of you.

A. That is correct I think,—to the best of my recollection it is.

MR. HUGHES: I offer it.

MR. HAYDEN: We object as not being proper cross examination, or the proper method of impeachment, if any is intended, and as incompetent, irrelevant and immaterial.

MR. HUGHES: That is not the intention.

Whereupon said document was marked Respondent's Identification No. 3.

(Witness excused.)

Whereupon an adjournment was taken until 1 p. m. 1 o'clock P. M. Wednesday, February 14, 1912.

STIPULATION.

It is stipulated between the parties hereto that the signatures to the depositions or testimony taken before the Commissioner, or any Notary Public, in the presence of counsel for the respective parties, whether heretofore taken or hereafter taken in this proceeding, are hereby waived, and the transcript of their testimony filed herein shall be received and considered as their evidence.

MR. WILLIAM J. WARD, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What is your full name?

A. William John Ward.

Q. How old are you? A. Thirty-two.

Q. What is your business?

A. Contractor and carpenter; at the present time I am deputy sheriff of King County.

Q. Where do you live? A. At Three Tree Point.

Q. Were you living there on the night of the collision between the Strathalbyn and the Virginian, that is January 12th? A. Yes, sir.

Q. How long have you been living at Three Tree Point. A. Three years the 29th of this July.

Q. Are you familiar with the steamers Flyer and Indianapolis so that you can distinguish their lights and tell those boats on seeing them at a distance?

A. Yes, sir.

Q. On the night of this accident, did you see the lights of the Flyer and the lights of the Indianapolis?

A. Yes, sir.

Q. State in what position those lights were when you saw them?

A. The Flyer was about, I should judge about 12 minutes off the point towards Seattle, and the Indianapolis about 15 minutes off towards Robinsons Point.

Q. Did you see the lights of any other vessels in company with the Flyer? A. Yes, sir.

Q. Coming up towards the point? A. Yes, sir.

Q. Did you see the lights of another vessel in company with the Indianapolis coming towards Three Tree Point? A. Yes, sir.

Q. What lights did you see upon the vessel coming towards Three Tree Point in company with the Indianapolis. A. Just an ordinary white mast light.

Q. How did that light appear?

A. About the same as the Indianapolis light.

Q. Where would you say that light was with respect to its location between Pully Point and Robinson's Point?

A. I would say it was five or six minutes off Robinson's Point. It takes about twenty minutes across there for the boat; I don't know the distance; but somewhere near 15 minutes off of Three Tree Point.

Q. From what place did you see these lights?

A. From the Three Tree Point light, the Government light there.

Q. Was anybody with you at the time.

A. My wife.

Q. And at about what time was this?

A. At about 7:45.

Q. Did you see the collision? A. No, sir.

Q. Did you hear it? A. Yes, sir.

Q. Where were you when you heard it?

A. We were in the house.

CROSS EXAMINATION BY MR. HUGHES.

Q. Are you the light-house keeper? A. Yes, sir.

Q. You live there at the point? A. Yes, sir.

Q. When you saw these lights you have spoken of, you and your wife just happened to be outside of the house, I take it?

A. It is quite a frequent happening of ours to take a walk out on the plank walk in the evening.

Q. That is, you were outside and you did not see them from in the house? A. No, sir.

Q. Afterwards you went in the house?

A. Yes. We noticed them on account of the four boats, two from each way. That is what made us take notice of the lights.

Q. You looked towards Seattle and saw two ships coming. A. And two coming from Tacoma.

Q. And you looked towards Tacoma and saw one that you took to be the Indianapolis?

A. I knew it was the Indianapolis.

Q. You could tell from the lights of her cabin?

A. Yes, sir.

Q. And another, you saw one bright white light, masthead light, that was apart from the Indianapolis?

A. Yes, sir.

Q. Which way was she, behind or ahead of the Indianapolis?

A. It seemed like the Indianapolis went behind and was out of sight for an instant.

Q. In other words, while you were looking, this white light you saw must have been, when you first saw it, ahead of the Indianapolis? A. Yes, sir.

Q. But you cannot tell how far? A. No.

Q. But you say that boat was the one with the light?

A. Yes, sir.

Q. You had seen the lights of the Indianapolis behind it, and then for a little they were obscured.

A. Yes, sir.

Q. Did they show up again before you went in?

A. No, sir, just the bow lights on the Indianapolis; just the cabin lights, you could see them.

Q. At the time you noticed them, the Indianapolis was behind the other ship? A. Yes, sir.

Q. Of course under those conditions it would be impossible for you in the darkness of the night to estimate with any degree of approximation the distance?

A. Yes, the distance I would not say, only from the time that the "Indian" passed the point. It was about 15 minutes until the "Indian" passed the point.

Q. Did you notice the Strathalbyn and the Virginian when they passed the point?

A. Yes. They generally passed on this side of the point coming towards Tacoma, and they did not pass so far over that night.

Q. Did they pass the Point before the Indianapolis?

A. Yes, sir, the Flyer,—the Flyer was coming by the point before the Indianapolis was there.

Q. The Flyer then passed probably three minutes before the Indianapolis?

A. I would not want to judge the time. I heard the waves as they washed the shore.

Q. Did you see them? A. I noticed the Flyer.

Q. Did you notice the Indianapolis?

A. No, but I noticed the Flyer, because we generally checked our time by the boats as they passed.

Q. Did you see the Virginian at that time?

A. Yes, sir.

Q. Where was the Flyer with reference to the Virginian when you took the time?

A. I did not notice how far off the Virginian was; not far off the point.

Q. She was behind the Flyer at the time?

A. Yes, sir.

Q. Do you know how much?

A. No, sir, I would not judge the distance at all.

Q. Which boat was the furthest off?

A. I don't know; I didn't notice that, no, sir.

Q. Well, you went back inside and saw no more?

A. Yes, sir, we saw no more.

Q. Do you know what you were doing between the time you and your wife were walking outside, when you saw these lights of the four ships, two on the north and two on the south of the Point, and the time afterward when you checked your time up by the passing of the Flyer?

A. We just walked back; it is about forty rods out there.

Q. You walked back and went in the house?

A. Yes, sir.

Q. You were not doing anything in particular?

A. No, sir.

Q. Ten or fifteen minutes intervened?

A. Yes, sir.

Q. And do you recollect what you were doing during that time?

A. Only that we walked back and went into the house.

Q. Engaged in ordinary conversation?

A. Yes, sir.

Q. Nothing unusual? A. Oh, no.

Q. Nothing to impress the time or circumstances on your mind as distinguished from any other similar case? A. No, sir.

(Witness excused.)

MRS. FRANCIS MAY WARD, a witness called and sworn in behalf of the libellant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What is your full name? A. Francis May.

Q. Your husband was just on the stand?

A. Yes, sir.

Q. How long have you been living at Three Tree Point? A. Three years.

Q. And you were out on this wharf on the night of the collision between the Strathalbyn and the Virginian. A. Yes, sir.

Q. Did you see the Flyer and the Virginian approaching from the north, and the Indianapolis and the Strathalbyn approaching from the south? A. Yes, sir.

Q. Now you have lived there long enough and seen the Flyer and the Indianapolis pass at night often enough to know them at a distance? A. Yes, sir.

Q. How far away would you say the Indianapolis and the Strathalbyn were when you observed them, from Pully Point? A. About fifteen minutes or so.

Q. And how far would you say the Flyer and Virginian were away from Pully Point at the time?

A. About the same distance the other side.

Q. How did you happen to notice these four vessels that night?

A. We saw the lights coming, two going one way and two the other; we saw the mast lights; happened to notice them.

Q. The four vessels approaching attracted your attention? A. Yes, sir.

Q. How did the mast-head light on the vessel that was in company with the Indianapolis appear to you?

A. It seemed to be brighter than the other; I suppose it was the larger.

Q. Brighter than the Indianapolis? A. Yes, sir.

Q. That is all the lights you saw on the Strathalbyn, the one masthead light? A. Yes, sir.

Q. And you simply noticed the masthead light of the Indianapolis and her cabin lights?

A. That is all I noticed.

Q. You did not notice any of the side lights on either vessel? A. No, sir.

CROSS EXAMINATION BY MR. HUGHES.

Q. What were you doing at the time, Mrs. Ward?

A. We just walked out to the Government point light, my husband and I.

Q. How far is that from your house?

A. About forty rods or so; I don't know just how far.

Q. Were you walking back from the light?

A. We had just got out there.

Q. When you happened to look north and saw what you knew to be the Flyer? A. Yes, sir.

Q. And you saw another vessel? A. Yes.

Q. What lights did you see on the other vessel?

A. Just the mast lights on both.

Q. You could see the cabin lights on the Flyer?

A. Yes, I could notice those.

Q. Did you immediately afterwards look the other way towards Tacoma? A. Yes, sir.

Q. Did you and your husband comment on the fact?

A. No, I don't know as we did, but I spoke about the two boats in both directions.

Q. When you looked towards Tacoma how did you know it was the Indianapolis?

A. I know that boat, the size and her general looks.

Q. Well, what was there about it?

A. And it passes about that time.

Q. It was about time for it? A. Yes.

Q. That was one reason you knew? A. Yes, sir.

Q. Was it because of the cabin lights that you saw at that distance which helped you to identify it?

A. I noticed the other lights first.

Q. The masthead lights? A. Yes.

Q. Did you notice the green or red light?

No, sir, just the white light.

Q. Which light did you see first, the masthead light or the Indianapolis or the other?

A. I just saw one; it seemed to be lower than the other.

Q. Which one seemed to be lower?

A. The one on the left side.

Q. In other words, that is lower than the Indianapolis?

A. Lower than the other boat; I don't know which one.

Q. But you knew which had the cabin lights?

A. I noticed the lights before I noticed the cabin; it would be the Indianapolis I saw first.

Q. Then you saw the cabin lights of the Indianapolis. A. Yes.

Q. And then after that you saw the white light which you took for the masthead light on another boat?

A. Yes, sir.

Q. That was off to the left of the Indianapolis?

A. I don't know which side; I just noticed the lights; I didn't pay any attention to which side.

Q. Did the Indianapolis appear to be hidden for awhile, or her lights?

A. Just when it passed the other vessel.

Q. So that there was a time when you lost the cabin lights of the Indianapolis? A. Yes, for a moment.

Q. Hence, you think now when you saw the other light, the ship that was carrying it was ahead of the Indianapolis? A. Yes, I think so.

Q. All you saw of course was that solitary white light which you took to be the masthead light of the ship? A. We saw the two.

Q. I mean of this other ship? A. Yes, sir.

Q. All you saw of the other boat was the white light?

Q. And that is all you had to reach the conclusion from that it was another boat?

A. That is all I noticed, was that one light.

Q. Was it lower or higher than the masthead light of the Indianapolis?

A. It seemed to be higher; I think so; it might have been the distance between the vessels that made it look that way.

Q. It might have been enough nearer to appear to be higher? A. Yes.

Q. You could not tell in the darkness anything about the distance of the one white light? A. No, sir.

Q. Immediately after that, did you turn and walk back, or did you remain there?

A. We turned around and walked home.

Q. And you had no conversation about these lights?

A. No, we did not mention them any more.

Q. Or anything about the circumstance that attracted your attention. A. No, sir.

Q. You walked directly to the house? A. Yes, sir.

Q. Went in the house? A. Yes, sir.

Q. How long had your husband remained in the house before he went out onto the dock again?

A. About ten minutes, ten or fifteen; I did not notice how long; I did not notice the time.

Q. There was not anything that occurred in that ten minutes to fix your memory by; nothing to impress on your mind the lapse of time? A. No, sir.

Q. You didn't go out the second time and see the Flyer? A. No, sir.

Q. When you were standing out on the dock, did you see Robinson light? A. I didn't notice it.

Q. You know where it is?

A. Yes, but I did not notice.

Q. You would not know whether the lights you saw were between where you were and the Robinson light?

A. I knew it was between.

Q. You mean in the line between?

A. Yes, it would be about the same, it looked that way.

Q. But you did not observe the Robinson light?

A. No, I did not pay any attention to it.

(Witness excused.)

CAPTAIN H. F. BEECHER, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Captain, what is your full name?

A. Herbert Foote Beecher.

Q. How old are you? A. Fifty-seven years.

Q. How long have you been following the sea?

A. Thirty-one years on Puget Sound, and about eight years on the Atlantic.

Q. You hold a regular master's license?

A. Yes, sir.

Q. And pilot license? A. Yes, sir.

Q. How long have you held a master's and pilot's license? A. On Puget Sound, 31 years.

Q. You have been engaged as pilot for how long?

A. Practically all that time.

Q. What vessels and lines of vessels do you have to pilot at this time?

A. I pilot the vessels employed by the American Trading Company, Hind-Rolph Company, San Francisco, and occasionally do some for the J. J. Moore & Company's vessels, and such other vessels as come in free, not employed on time charter by other firms.

Q. You make it your business to act as pilot for vessels on Puget Sound?

A. Yes, sir, that is my business.

Q. Running from the straits to Tacoma and Seattle and other places? A. Yes, sir.

Q. Were you pilot on the steamship Strathalbyn on the night of the collision with the Virginian?

A. I was.

Q. Did you take charge of her at the port of Tacoma? A. Yes, sir.

Q. Were you on the bridge at all times from the time she left Tacoma until after the collision?

A. Yes, sir.

Q. And until she returned to Tacoma and tied up?

A. Yes, sir.

Q. When you left the Port of Tacoma, were her side lights, mast head light, burning? A. They were.

Q. Do you know what kind of lights they were?

A. Oil.

Q. Where was the mast-head light positioned?

A. Forward part of the foremast, in front of the cross-trees.

Q. And the side lights were positioned where?

A. On the lower bridge, one on each side, in the usual places.

Q. What cargo did the Strathalbyn carry?

A. Lumber.

Q. Did she have a deck load forward and aft?

A. She did.

Q. Leaving the port of Tacoma did anything unusual occur until after you had passed Robinson Point?

A. Nothing that I know of, no, sir, except that we met several vessels.

Q. Where did the steamship Indianapolis overhaul you on its way to Seattle from Tacoma?

A. Shortly after we had rounded Robinson Point.

Q. She passed you on what side?

A. On our starboard side.

Q. How far were you from Robinsons Point at that time?

A. I don't think we were more than five minutes past it; I could not say as to the distance.

Q. Did you observe the time that it took to go from Tacoma to Robinson's Point on the Strathalbyn?

A. I did, yes, sir.

Q. What rate of speed was the Strathalbyn making this night? A. About six knots, sir.

Q. When you came to Robinson's Point how far off the point did you pass it?

A. I should judge a quarter of a mile.

Q. When you were turning the point, did you notice the lights of any steamers ahead? A. I did, sir.

Q. Could you tell at that time what steamers they were?

A. I did not know; I knew the Flyer was due but I could not say whether one of them was her or not.

Q. It was time for you to meet the Flyer about there?

A. We generally meet the Flyer and Indianapolis between Robinson and Pully, whichever way I happen to be going.

Q. Where did the lights seem to be with reference to Pully Point?

A. They seemed to be off of it, and I judge the other side of it.

Q. Did you notice any manoeuvres of the vessels carrying the light?

A. I saw one ship on the inside disappear and then go on the other side of the other ship, whichever it was.

Q. What did that other ship eventually prove to be, the one that went around?

A. That was the Flyer.

Q. And the other ship was what?

A. I did not know at that time what it was; it turned out to be the Virginian.

Q. You could see the lights at Pully Point?

A. Yes, sir, plainly.

Q. What kind of a night was it?

A. A medium dark night; not excessively so.

Q. What kind of a night with respect to seeing the lights? A. A beautiful night.

Q. The lights plainly visible? A. Very.

Q. Clear atmosphere?

A. For a cloudy sky, yes, sir.

Q. Did you pass the steamer Flyer between Robinson and Pully Point? A. I met her, sir.

Q. Did you give her a passing signal?

A. I blew one blast, sir.

Q. And did she give you a passing signal?

A. She answered it, yes.

Q. How far in your judgment was she from you at the time she answered it.

A. Between a half and a quarter of a mile.

Q. Did you see this other vessel approaching at that time? A. I did, sir.

Q. What did you do if anything at the time you whistled to the Flyer, with respect to steering your vessel?

A. I did not do anything with her, sir, that is with the Flyer.

Q. But with your vessel. A. Not anything.

Q. Did you give any passing signal to the Virginian? A. I did, sir.

Q. When you gave the first passing signal to the Virginian, in what position did the Flyer appear to be from you, if you remember?

A. Shortly after my whistle, about my beam; I did not look to see her after she had gone by; I had my eye on the other ship coming.

Q. You gave the other ship one whistle?

A. One blast, yes, sir, and ported my helm.

Q. At that time you ported your helm.

A. Yes, sir.

Q. Prior to your signal to the Flyer, did you notice the lights on the other vessel? A. Yes, sir.

Q. What lights did you see?

A. A mast head and range lights; a red and green light.

Q. From what position did those lights appear to you? A. A little bit ahead and a little on my port bow.

Q. When you gave your first whistle to the Virginian, were those lights in the same position?

A. They were, sir.

Q. Did you get any answer from the Virginian to your first whistle? A. I did not.

Q. How long after the first whistle before you blew again to the Virginian?

A. I should judge a minute; sufficiently long to give him a chance to answer my first whistle.

Q. Did the Virginian answer that?

A. She did not.

Q. At the time you blew your second whistle, did you observe the lights of the Virginian? A. Yes, sir.

Q. How did they appear?

A. The red light was getting dimmer, and I stopped the ship.

Q. You stopped the Strathalbyn?

A. I stopped the Strathalbyn; I rang the telegraph to stop; I should not have said I stopped the ship.

MR. HUGHES: You stopped the engine; of course the ship would not stop? A. That is it.

(BY MR. HAYDEN)

Q. Did the Virginian at that time answer your second whistle? A. She did not.

Q. On your second whistle, did you do anything towards steering the Strathalbyn?

A. I ported the second time, sir.

Q. Did you observe at the time of the second whistle what was occurring to the Virginian's lights?

A. I could see by her range lights that she was opening her range lights and closing her red.

Q. Explain that?

A. The range light was on the main mast, and masthead light on the foremast. We call them range lights. The first time she was end on, or nearly so, and the range lights were in line, and her red and green plainly visible, but the second time I blew my whistle, the range lights had opened a little, by partially closing, but had not obscured the red entirely. I blew my second whistle and ported, and stopped the engines.

Q. After that what did you do again?

A. I waited approximately about a minute, I should judge, and blew my third whistle with no answer.

Q. That is the Virginian did not answer you?

A. No, sir.

Q. Did you do anything towards steering your vessel?

A. I ported; the ship was still swinging; she had no headway to be controlled by the rudder. Seeing nothing but the green light and the range lights opening very broad, I blew the danger whistle and run full speed astern.

Q. Did you get any answer from the Virginian to your danger whistle? A. She blew three blasts.

Q. About how long after you had given her the danger whistle did she blow those three blasts?

A. Probably a quarter of a minute or half a minute; something like that; I could not tell exactly.

Q. How long after she blew the three blasts before you came into collision?

A. It was very shortly after that, sir. Everything was rapid; she was going so fast that everything was so quick you could not take the time. I was thinking of something else besides time then.

Q. When you blew your first signal to the Vir-

ginian, how far apart would you say the Strathalbyn and the Virginian were from each other?

A. Well it is hard to say; I would say from three-quarters of a mile to a mile.

Q. What course did you take with the Strathalbyn from Robinson's Point to Pully Point?

A. Northwest half north magnetic.

Q. At about what position between Pully Point and Robinson's Point did the collision occur?

A. I should judge a mile this side of Pully Point, to the southerly.

Q. What did you observe as to the effect of this collision immediately that it took place, when the two vessels came together?

A. Well there was a terrific blow. Our boat listed and swung still further to port. It seemed as if the Virginian run on top of us and crushed down.

Q. You say, swung to port?

A. Swung to starboard I should have said. It seemed as if the Virginian rose right on top of us and crushed us right down.

Q. What was the effect of the contact; did it make any fireworks or anything of that kind?

A. Yes, sir, there was a pyrotechnical display for five or six feet up.

Q. You mean sparks? A. Yes, sir.

Q. What side of the Strathalbyn was struck by the Virginian? A. The port bow, sir.

Q. Do you know where they came into contact with each other?

A. At the moment I did not know where she struck, but afterward I noticed she struck just forward of the hawse pipe.

Q. Did you observe the steam of the Virginian after it struck you, as to whether or not it passed across your bow?

A. Yes, sir, she had passed our bow I would say 25 or 30 feet.

Q. She went as much as 25 or 30 feet across your bow?

A. Yes, sir, between her foremast and forecastle was up to our stem.

Q. When the Virginian and Strathalbyn came into collision, did you notice whether or not the Virginian was backing?

A. When he blew his three whistles in answer to my danger signal, I looked along the hull which was very plain, and I called attention that she was just beginning to back; the backwater was just getting back under his starboard quarter.

Q. When you ported your helm on the first whistle to the Virginian, at about what position, or which way was the Strathalbyn heading?

A. Just inside of Pully Point light; that light was upon my port bow about half a point.

Q. When you ported it the second time, in what direction towards the land was the Strathalbyn heading?

A. Pointing right into the bite, inside of Pully.

Q. And the third time?

A. Still further in, to the southerly and easterly.

Q. What was the angle at which the Virginian struck you when you came together?

A. It was not a right angle, but it was more over in that position (indicating); it was not an acute angle; it was almost right angle. I could not state definitely as to that. It was in the dark and you could not tell. I could see her hull very plainly coming along, long before she got to us.

Q. How long would you say the engines on the Strathalbyn had been stopped before you gave the reversing signal? A. Two and one-half to three minutes.

Q. How long would you say you had been reversing?

A. A minute or a minute and a half, perhaps more; I could not say definitely. I had no means of looking at the time then.

Q. Did you have occasion to look at the sidelights or masthead light on the Strathalbyn prior to this collision? A. I did several times.

Q. Tell what you did in connection with those lights, giving as nearly as you can in chronological order?

A. Meeting vessels going out of Tacoma harbor, I look at the lights myself, as is my custom on all these

vessels, and they were burning brightly. We met the Indianapolis at Brown's Point, and I looked at the lights again before we got to her, and they were burning brightly. The Queen came around just after the Indianapolis, as we rounded Brown's Point; my lights were burning brightly. At half-past six the lights were reported burning brightly. I looked at them again myself, as I take no man's word for it. At seven o'clock they were burning brightly, and I looked again, and at 7:30, they were reported. And when I blew my whistle at the Flyer, I looked over the side at my red light, and glanced across to the bridge and saw the green light reflection on the haze, and looked up to the masthead light and saw that it was burning brightly; and the same way when I blew at the Virginian, at each time.

Q. The lights were burning brightly?

A. The lights were burning brightly, yes, sir.

Q. Where were you standing when you looked at these lights?

A. At the time of the collision I was amidships.

Q. But when you looked at the lights?

A. At other times I walked back and forth on the bridge.

Q. On the flying bridge? A. Yes, sir.

Q. And the lights were on the bridge below you?

A. On the bridge below me, yes, sir.

Q. And you could see them from the navigating bridge, could you? A. Very plainly.

Q. Are you accustomed to meeting and seeing vessels, or being on vessels that use oil lamps? A. I am, sir.

Q. How would you say these lights compared with the light of oil lamps?

A. They were splendid lights. All the Strath line of lights are reputed among us pilots to be the best lights that come in here.

MR. HUGHES: I move that the last statement be stricken as hearsay and incompetent.

Q. Is it a custom in the shipping world for vessels to use oil lights?

A. Formerly it was, yes. They are getting out of use more and more now as electricity is coming in.

Q. Do you know of any big line of vessels which use oil lights?

MR. HUGHES: That is objected to as immaterial.

A. I cannot call to mind at present.

Q. How long before coming into collision with the Virginian did you look at the side lights of the Strathalbyn?

A. When I blew my first whistle I looked, and when I ported, and for my second whistle I looked at the red light. I did not pay any attention to the green, because I did not intend that she should see it.

Q. At the time you blew your first whistle to the Virginian and ported your helm, would your red light have shown up to her? A. Most assuredly, sir.

Q. Was there any time from the time you blew to the Virginian that your green light would have shown to her? A. No, sir, not after I ported.

Q. You say this vessel had a forward deck cargo of lumber? A. Yes, sir.

Q. How was that cargo of lumber held on the vessel? A. By stanchions; uprights.

Q. The stanchions were positioned how?

A. They were placed along the rail on either side from the bridge forward.

Q. Could you tell from your position whether or not those stanchions were inside the line of the port light?

A. They must have been; from the width of her bulwark rail.

Q. Did you observe the rays of the red light upon the stanchions? A. Indeed, sir, several times.

Q. State how they appeared?

A. They ranged right forward and touched three or four stanchions I noticed.

Q. On what side? A. Port side; the red light.

Q. I mean inside or outside the stanchions?

A. The outside stanchions, sir.

Q. It showed full on the first stanchion did it?

A. Yes, sir.

Q. And ranged along so that you could see,—

A. I could see the reflection of the light on three or four stanchions.

Q. Ahead of the first stanchion?

A. Yes, back to the foremast rigging.

Q. How high, compared with the house of the Virginian did this cargo come?

A. You mean the Strathalbyn?

Q. Yes. A. Just below the lower bridge.

Q. When you gave the Virginian the second signal and stopped her, why did you stop her?

A. Because I was heading into the beach too.

Q. And what did you have in mind when you stopped her?

A. There was shallow ground in there, and I was going very slow. We were not making half speed, and I did not know whether I could swing out if she did port, which I had every reason to believe she would.

Q. Up to the time you gave the danger signal, did you have any reason to believe that you were going to come into collision with the Virginian? A. I did not, sir.

Q. At the time you gave the danger signal was the position of the Virginian and the Strathalbyn such that the Virginian by acting promptly could have passed the Strathalbyn on the port side?

A. I think she could, sir. I see no reason why not.

Q. Did the Virginian's range lights continue to open up to the time of the collision?

A. Yes, sir, they were broad; almost parallel.

Q. Almost parallel?

A. They kept broadening; they looked parallel but of course they would not be.

Q. You mean right angles?

A. Well, she was coming at me almost at right angles. Her lights were broad like that (indicating).

Q. When you say her lights were broad, what do you mean?

A. The masthead and range lights were opened as if they were two individual lights.

Q. Well open? A. Yes, sir, well open.

Q. Which way would the Virginian be heading at that time with respect to the beach?

A. She would be heading into the beach too, sir, at the opposite angle to me.

Q. Will you take this chart and place on it your course,—Libelant's Identification B?

A. Yes, sir; that was the course from Robinson's Point.

Q. The long line in the shape of an arrow, with "Strathalbyn" written at the southerly end of it, is the course which you took going from Robinsons Point to Pully Point? A. Yes, sir.

Q. One of the witnesses for the Virginian testified that they were making a course southeast a quarter south, magnetic, and that they passed Pully Point a half a mile off. Will you please lay out that course on this chart? A. Yes, sir. (Indicates.)

Q. At the northern end of this line which you have just marked out as the course of the Virginian I will write, "Virginian."

How fast would you think the Strathalbyn was moving at the time of the collision?

A. She was practically at a standstill, sir.

Q. Did the Virginian appear to be moving at the time of the collision? A. She did, yes, sir.

Q. When the two vessels came together, did you notice any jar on the Strathalbyn?

A. Yes, and felt it too.

Q. Explain how that felt to you?

A. I was standing with my hand on the whistle rope, and the stanchion alongside of me, and my elbow on the telegraph, and it knocked me right up against it and skinned about a quarter's worth of skin off my elbow. It felt like,—I can't tell the sound and sight and everything; there was that grinding and crushing of the metal plates which were being torn and stripped from our ship.

Q. Didd you see the Strathalbyn after the accident?

A. Not immediately after; not until after we got to this port.

Q. Did you see her next day? A. Yes, sir.

Q. Did you observe any damage to her?

A. Yes, sir, considerable.

Q. What was the condition of her as far as damage was concerned?

A. From her port hawse pipe was bent completely

around, and the port anchor hanging in the place where the starboard anchor was; the stem and plates and everything had been buckled and fluted and hung out in the water way back, opening up a number of holes, and the lumber could be seen.

Q. That is hung back where?

A. On the starboard bow; it was pressed right around.

Q. Was there anybody injured aboard the Strathalbyn? A. One of the sailors was drowned, killed.

Q. Anybody else injured?

A. Several. Two of the sailors and one of the firemen, I believe; I would not be sure as to that.

Q. I hand you Libelant's Identification C and ask you if you recognize that as a photograph of the Strathalbyn? A. Yes, sir.

Q. Now I wish you would tell me if this anchro marked "A" in ink is the port or starboard anchor?

A. It is the port anchor, sir.

Q. What is this part of the vessel indicated by brackets marked "B" in ink?

A. The lower part of the stem.

Q. I call your attention to this marked "C," and ask you if that is the starboard anchor? A. Yes, sir.

Q. I call your attention to D and ask you if that is the collision bulkhead?

A. Yes, sir, that is the collision bulkhead.

Q. That is at the forward end of hold Number one?

A. Yes, sir.

Q. I call your attention to this chain that runs from the bow aft to the starboard anchor, is that the starboard anchor chain? A. Yes.

Q. I will ask you what this compartment is marked E? A. That is the sailors foc'sl.

Q. And what is this compartment marked F?

A. The fore peak, part of it.

Q. And this compartment marked "G"?

A. I don't know whether that is the fore peak tank or not; maybe it is the chain locker.

Q. I will ask you what this is in here back of the frames, at the point marked "H"?

A. That is the lumber cargo, in Number one hold.

Q. I will ask you what this is that appears to be hanging over the starboard bow, marked "I"?

A. That is the buckled plates of the starboard bow.

Q. Was the starboard so torn open that you could see right into the ship?

A. It was, sir. I saw it the next morning.

Q. That was due to this collision? A. It was, sir.

Q. Are you able to say from your own personal observation where the masthead light was positioned?

A. Not the exact position.

Q. How did you observe the lights?

A. I could see the reflection from the bridge on the crosstrees. I could look from the bridge and see the lights shining down.

Q. When you were on your way prior to this collision, were any of these booms or falls up or down?

A. They were all down in their places, ready for sea.

Q. I will ask you what deck this is marked "J"?

A. That is the saloon deck or cabin deck.

Q. I will ask you what deck you call the deck marked K? A. That is the lower bridge.

Q. Sometimes called the chart room deck?

A. Sometimes called the chart room deck, yes, sir.

Q. I will ask you what bridge you call that marked "L"? A. The flying bridge, sir.

Q. I will ask you about where the cargo of lumber was as you recall it; that is the top of the forward deck load of lumber on the house?

A. It came just a little bit alongside of these air-ports in the saloon cabin, about that high.

Q. About to the top of them?

A. I could not say as to that. It about half covered them as I recall.

Q. The port holes here are marked M?

A. Yes, sir.

Q. Where were you navigating from?

A. From the flying bridge.

Q. Marked "L"? A. Yes, sir.

Q. Who was with you on the bridge at the time you rounded Robinson's Point?

A. The chief officer, Mr. Purdy.

Q. Anybody else?

A. Shortly after, the Captain came up and relieved Purdy.

Q. Anybody else?

A. The quartermaster at the wheel, steering.

Q. Who was on the bridge at the time of the collision?

A. The quartermaster, Mr. Purdy, and Captain Crerar.

MR. HAYDEN: I now offer Libelant's Identification C.

Whereupon said photograph was marked Libelant's Identification C.

Q. Calling your attention to Libelant's "D," I will ask you on what bridge the port light, or both the port and starboard light, was burning?

A. The end of the lower bridge or chartroom deck.

Q. Was it in a regular box?

A. In a regular lamp screen, as it is called.

Q. Just forward of the boat?

A. Just forward of the boat, at the extreme end of the bridge.

MR. HUGHES: You mean the small boat?

A. Yes, sir.

MR. HAYDEN: I will mark that box A, carrying a line out to the letter "A," is that correct? A. Yes.

Q. Is that a correct representation of the Strathalbyn?

A. Yes, sir; she is partially discharged there.

Q. That is the forward cargo of lumber is discharged? A. Yes, sir.

MR. HAYDEN: I offer Identification D.

Whereupon said photograph was marked Libelant's Identification "D."

Q. Now I call your attention, Captain, to Libelant's Identification E; I will mark the port anchor "A," is that right? A. Yes, sir.

Q. And the part marked "B" is the incomplete stem? A. Yes, sir.

Q. That is the stem extends out beyond the reach of the picture? A. Yes, sir.

Q. The metal between the forward end of this pic-

ture or right hand side of the picture above "B," back to between points C and D, shown by the dotted line, represents the part of the bow of the Strathalbyn as it was twisted around on the starboard side by the impact of this collision, does it? A. It does, sir.

Q. The letter "E" on this picture represents the collision bulkhead? A. Yes, sir.

Q. And back or to the left of the letter E is the Number 1 hold, showing the cargo? A. Yes, sir.

Q. This marked with the letter "F" then is the cargo? A. Yes, sir.

Q. This compartment marked "G" is what?

A. The sailors foc-sl.

Q. And this coil of ropes marked "H" is what?

A. The fore-peak.

Q. And this chain that shows in the picture is the chain going from the starboard anchor, is it?

A. Yes, sir.

MR. HAYDEN: We offer this as Exhibit E.

Whereupon said photograph was marked Libelant's Exhibit E.

Q. Now calling your attention to identification "F," I will ask you if you recognize that?

A. Yes, sir, that is the windlass on the Strathalbyn.

Q. Was that broken by this collision?

A. Yes, sir, it was.

Q. And the chain which is here is the chain to the starboard anchor? A. Yes, sir.

MR. HAYDEN: We offer that as F.

Whereupon said photograph was marked Libelant's Exhibit F.

Q. Referring now to Identification H, that is the same picture as Identification E, except that it is taken from a little different direction?

A. Looking from aft forward.

Q. And the anchor marked A on Libelant's H is the port anchor? A. Yes, sir.

MR. HAYDEN: We offer that in evidence.

Whereupon said photograph was marked Libelant's H.

Q. Now referring to Identification I, that is Strathalbyn's bow.

MR. HAYDEN: I also offer that.

Whereupon said photograph was marked Libellant's I.

Q. Referring now to Identification J, calling your attention to the point around which the rope that is holding the pile-driver is made fast, marked "A," what does that indicate.

A. The lower part of the stem of the Strathalbyn.

Q. And B on this picture is the port anchor?

A. Yes, sir.

Q. And this mass hanging out on the starboard, over which hangs the starboard anchor chain, is the crumpled iron? A. Yes, of the starboard bow.

Q. Marked "C"? A. Yes.

Q. And the chain shown there is the chain to the starboard anchor? A. Yes, sir.

MR. HAYDEN: We offer that.

Whereupon said photograph was marked Libellant's J.

Q. Calling your attention to Identification K, is that the bow of the Strathalbyn?

A. That is the bow back of the collision bulkhead, with the crumpled plates.

Q. Does that fairly represent the crumpled plates?

A. Yes; some of which had been taken off.

MR. HAYDEN: We offer that photograph.

Whereupon said photograph was marked Libellant's K.

Q. Now calling your attention to Identification G, I will ask you if that is the starboard anchor marked "A"? A. It is, sir.

Q. Hanging from the wreckage. A. Yes, sir.

Q. Which is the same wreckage shown in Exhibit K? A. Yes, sir.

MR. HAYDEN: I offer that in evidence.

Whereupon said photograph was marked as Libellant's G.

Q. When these vessels came together at the time of the collision, how long would you say that they remained clinging to each other?

A. About a minute; she shot right by us.

CROSS EXAMINATION BY MR. HUGHES.

Q. When did you take charge of this ship as pilot?

A. On her arrival on the Sound.

Q. You brought her in? A. I did.

Q. What I meant more particularly was when you took charge for the purpose of piloting her out after she had taken cargo?

A. On the morning of the 12th I took her from the mill to anchorage, and came ashore, and went out about five o'clock with the Captain; we had some matters to adjust, and started to get under way about six o'clock.

Q. You left the harbor of Tacoma about six o'clock on the evening of January 12th? A. Yes, sir.

Q. What lights did the ship regularly carry?

A. A masthead light, two side lights and range light; that is prior to that time.

Q. Did she have the range light that night?

A. She did not.

Q. Why not?

A. Of my own knowledge, I could not tell.

Q. She carried the lights you have just stated; two side lights, masthead light and range light, when you brought her in? A. Yes.

Q. What were they? A. Electric lights.

Q. What were they on the night you started out with her on the evening of January 12th?

A. Oil lamps.

Q. Why was not the ship using her electric lights?

A. You will have to ask the chief engineer.

Q. You know nothing about that?

A. Of my own knowledge, no, sir, not personally.

Q. Did you know before you started why her electric lights were not going. A. I did.

Q. Did you inspect her oil lights that were used in place of her electric lights?

A. Before they were put up in place.

Q. Yes, sir?

A. No, sir.

Q. Or before they were lighted? A. No, sir.

Q. You did not inspect them afterwards, except as you looked at them?

A. I looked to see that they were burning.

Q. You did that from the bridge?

A. From the bridge, yes.

Q. The electric side lights were placed on the flying bridge, at the end of the flying bridge? A. Yes, sir.

Q. The oil lights used that night instead of the electric lights, in speaking of the sidelights, were placed on the ends of the lower bridge? A. Yes, sir.

Q. The electric masthead light was located where, on the mast of this ship?

A. On the foremast, just above the cross tree.

Q. You had nothing to do with the placing of the oil lamp used for a masthead light in place of the electric light, on the evening of the 12th? A. No, I did not.

Q. How far in front of your flying bridge, where you were on duty as pilot, was this mast on which the masthead light was placed?

A. I would judge 36 to 38 feet, sir.

Q. Did you ever take any measurements to know how high above the deck the cross tree is on that mast?

A. No, sir, I never did.

Q. Did she have forestays from the mast to the stem of the ship?

A. She had the regular stay, a wire stay to the bow or stem.

Q. Three of them together?

A. No, sir; that is I don't think so. My recollection is of only seeing one. About a three and one half inch wire; that is my recollection merely; but there was a stay from the topmast.

Q. Those forestays were carried away by the collision, weren't they? A. They were, sir.

Q. That masthead light showed abaft of the foremast of this ship, did it?

A. It did not show abaft of it, itself, or the light from it. It is supposed to show just a little abaft of the beam but not abaft of the mast.

Q. What is the range of the foremast head light?

A. All the way around the horizon, two points on each beam.

Q. Two points back of each beam?

A. Two points back on each beam, as you come up to it.

Q. That is it would show the full half signal in front and two points back of that on either side?

A. Yes, sir.

Q. From your bridge, you could not see the light itself. A. No, sir.

Q. You could only see its reflection against any object in front of it?

A. Yes, against the sky; the glare of it, as you can see lights anywhere else.

Q. It would have to be pretty dense atmosphere?

A. Not necessarily.

Q. You would have to make out its reflection against the stays?

A. I did not say it made a reflection against the stays.

Q. That is the only way you could actually see the light to know its condition would be by its reflection against some dark object?

A. The sky was dark and it throws its reflection just the same as the lights of the city. I could see the reflection of the lights go underneath the cross-tree and out at the side and up at the top. And that does not necessarily follow that it was a very dark or murky atmosphere.

Q. What was the direction of the wind on this night? A. Light southeast.

Q. About how many knots an hour?

You could not class it more than ought or one anyway; no wind at all. We were going as fast as the wind was.

Q. You think you were going as fast as the wind?

A. Faster. The smoke was going up straight mostly, what little there was.

Q. Of course the action of the smoke is fitful there?

A. Oh, yes, around the point, but on the straight run down I didn't notice the smoke to any extent going ahead of us at all.

Q. When you gave your signal to the Flyer, how did she lie from you. A. When she first came up?

Q. When you gave them the signal?

A. She lay forward of my port bow, I should judge about one point off of my port bow, and about a quarter

or a half a mile away. That is merely the judgment in the night, from my experience. I should have said the Flyer was a quarter to three-fourths point off my bow.

Q. The Flyer answered you promptly? A. Yes.

Q. Did I correctly understand you to say that the Flyer was abaft your beam before you gave the first signal to the Virginian?

A. About that; I did not pay any particular attention to her position after she had answered me and was parallel with me; I would judge between my beam and stern.

Q. How long a time then, according to your best recollection and judgment, elapsed between the time you gave your passing signal to the Flyer and the time you gave the first signal to the Virginian?

A. I could hardly tell. It was just about the time she was abeam of us I gave my first whistle to the Virginian; it might have been two minutes; it might have been more; I could not say as to that; we do not run so close as that in blowing whistles.

Q. But considering whistles, it would be two minutes?

A. Somewhere around that; I saw her; she had to come up to me after I had blown to her, there would be her speed coming and my speed too.

Q. About how far off your port side was she when she was abeam of you?

A. I would judge 300 or 350 feet.

Q. Not more than that?

A. I should not think so. I could see people walking around her deck.

Q. She had brilliantly lighted cabins?

A. Yes; I could see people on the deck walking around when she passed.

Q. They would be standing or passing between you and her cabin lights?

A. Yes. I could see the forms; I could not see the features.

Q. How far would you say you estimate the Virginian to be from you when you gave her the first passing signal? A. About a mile I would judge.

Q. And at that time you had her bearing how?

A. Just ahead of me and a little open on my port bows, it looked to me.

Q. About how much would you say she appeared to be on your port bow when you gave that first passing signal?

A. It was inappreciable. The red and green lights were plain. I could look right forward of my mast, and she looked to be ahead and right square at me and her range and masthead lights were right in line, one above the other; I judged she was heading square at me.

Q. So that she would be only slightly on your port bow?

A. That was my impression. Of course daylight may have made a difference.

Q. How long after you gave that signal did you port your helm.

A. I ported my helm the first time I blew to the Virginian.

Q. And after blowing?

A. As soon as I gave the blast I gave the order to port.

Q. How much did you direct them to port the helm?

A. I did not look at the compass, but I judge a point or a point and a half.

Q. But you gave no specific order as to how much?

A. No, sir, I said, "port," and when she got suitable to my mind, to show her my red light plainly, and he would port, I steadied her up, bring Pully Point about a half point open on my port bow.

Q. What do you mean by saying you steadied her up? A. I gave the order, "steady."

Q. To slacken off the port helm?

A. To put her over and stop her swinging, and I steadied her at the stop where she was supposed to be looking out at the time.

Q. That evidently occurred before you gave a second signal? A. Yes, sir.

Q. What time do you remember intervened while these things you have described took place?

A. I should judge a minute.

Q. During that time what was the Virginian doing, so far as you could observe?

A. Seemingly coming on her course, but just at the time I gave the second whistle his range light began to open a little, and the red light began to be not as brilliant, slightly dimmer.

Q. You had no answer from him?

A. No, sir, I had not.

Q. What conclusion did you reach?

A. I came to the conclusion at that time that it was through bad steering, and would swing out again.

Q. What conclusion did you reach about his not answering?

A. I don't know what he was thinking about.

Q. But I am not asking that, but what were your deductions as a pilot after having given the signal and waiting a minute and getting no answer, and seeing his ship apparently beginning to steer in the opposite way from which you signaled?

A. My inference was that he was not paying much attention to his business.

Q. Then you were in doubt about what he was doing?

A. No, sir, not at all, for a minute. My own opinion was that it was bad steering, and he was closing that red slightly, and opening his range light, and I expected fully under all rules of the road that his green would go out of sight and his red would come up plainly to my red, which he could not help but see.

Q. What right had you to expect anything until you got an answer from him?

A. Because where I stood I could hear all the whistles, and he could certainly hear mine.

Q. But he did not answer you? A. No, sir.

Q. What did that signify to you,—his failure to answer?

A. Either that he had not heard my whistle or that they were not keeping a very good lookout, and I blew again.

Q. The distance being what it was, you could not very well infer that he did not hear?

A. I had heard his and the Flyers long before,—three miles and over.

Q. And you gave a second whistle signalling your continued intention to pass to port?

A. Ported my helm again, keeping my red exposed, as it should have been.

Q. Now before giving that second blast, you had steadied your helm?

A. After I blew the first blast, yes.

Q. What occurred immediately after giving your second blast? A. I ported my helm again.

Q. Why did you do that?

A. Because that was the rule: when you blow your whistle you must port your helm.

Q. Having steadied your helm you ported again?

A. Yes sir.

Q. What did the Virginian do?

A. Nothing, apparently.

Q. How near did she seem to be to you by that time?

A. (Continuing) She was coming that way and he put his red light at me, and after I blew the whistle I stopped the engine.

Q. How near did she seem to be at that time?

A. Half or three-quarters of the distance of that when I gave the first whistle.

Q. That would be approximately half a mile away?

A. Half a mile, yes, sir.

Q. How soon after you gave the second whistle did you give the order the second time to port?

A. The same time I let go of the whistle.

Q. Did you notice whether the quartermaster observed your orders?

A. He answered me, and I looked at the wheel and saw he put it to port,—ported the helm.

Q. Did he put it over hard?

A. No, sir, I did not give the order hard-a-port.

Q. Did you do anything else at that time?

A. I steadied her again at that time, at the second blast,—not hearing again I blew my third.

Q. When was it stopped?

A. Just after I blew my second whistle, and he put his red light out completely.

Q. Then the order of events was this: You blew your second whistle and ordered your helm ported?

A. Yes.

Q. Then you began to lose sight of his red light?

A. Yes sir.

Q. Entirely? A. Yes.

Q. And when you began to lose sight of his red light, you stopped?

A. As soon as I saw his red light going out I stopped, because I was going in the beach; I was in irons, in other words, then.

Q. Captain, how long a time elapsed after you gave your second whistle before you had lost his red light sufficient to prompt you to give the order to stop the engine?

A. I saw the glimmer of the red light when I stopped; he was still continuing on his starboard helm.

Q. It so appeared to you?

A. From his range light.

Q. And you got no answer at all? A. No answer.

Q. What conclusion did you reach to your second whistle at so close a distance getting no answer, and losing his red light?

A. Well, I don't know that I can explain that Mr. Hughes. One of my conclusions was that probably he may have given the order port, and the quartermaster in the closed wheel house had put the helm starboard; that was merely a mental thought through my mind. I could not understand what he was doing.

Q. If such a mistake had been made, it would create the imminence of a collision at once?

A. Certainly; if one starboards and the other ports, you are bound to come together.

Q. What conclusion did you reach at his failure to answer your port whistle, your second port whistle?

A. I did not reach any; I thought they were very slack in their business, but if they had as many men on the bridge as they usually have, some of them must have heard.

Q. Any man on the bridge would necessarily hear, if he was not asleep or drunk?

A. That might be the case.

Q. Or if he had not fallen sick suddenly?

A. Oh, all of them might have dropped dead.

MR. HAYDEN: I object to all this as immaterial.

Q. How long a time elapsed between your second whistle and your third whistle?

A. I should judge a minute, as at first; sufficiently long to give him a chance to answer.

Q. How near do you think you were to him at the moment of giving him your third port signal?

A. I would think twelve to fifteen hundred feet off.

Q. His red light was then entirely out of sight?

A. Entirely out, yes, sir.

Q. His range lights appeared to be opening more?

A. They were broad.

Q. And nevertheless you gave him another port signal?

A. I could not do anything else; I was in irons.

Q. That is what you did? A. Yes, sir.

Q. Now you waited for an answer to that?

A. Practically, yes.

Q. Getting no answer you reversed?

A. I reversed and gave danger signals.

Q. And the instant you reversed you gave the danger signal, or before you reversed?

A. Practically the same, simultaneously; I had my hand on the whistle string.

Q. Why did you give that third port signal?

A. Because I could not help myself; he was forcing me into the beach; I had nothing else to do. I could not cross whistle him; that is contrary to law and would lose me my license as well as a fine; I could not change my whistle. I had every reason to believe that they kept a lookout; my red up against his green; all navigators would have changed the helm.

Q. It did not occur to you that he did not see your light?

A. No, sir, it never did; he could not help it. My lights were visible; it never occurred to me for a minute.

Q. What did occur to you as an explanation, to your mind, as a pilot, of the fact that a vessel whose lights you could plainly see, that was so near that they

must necessarily hear your whistles, gave you no answer? A. I cannot state; I do not know.

Q. How near were you to this oncoming ship at the time that you reversed and gave the danger signal?

A. I should judge at that time we were all of six or eight hundred feet away; we were practically stopped.

Q. How long was it after this danger signal until the collision actually occurred?

A. Probably a minute.

Q. Do you think as long as that?

A. Well it seemed hours, I could not tell as to the time. I know it seemed an awfully long time. I don't want to go through it again.

Q. Did you at any time order your helm hard over?

A. No, sir, I was backing then; she was still swinging; she had not enough headway to steady her up with the rudder. I was backing full speed, the propeller throwing her stern to port and bow to starboard.

Q. Her propeller would not do that until she began to go back?

A. Her propeller would throw her to port.

Q. Now as a navigator, so long as she had headway in the water and her wheel was ported, which way would her bow go, as long as she had headway?

A. Her bow to starboard, and stern to port, and her propeller backing would throw the stern still more to port. She was a port backing boat, as they call it. She backs to port.

Q. If she actually gained sternway with her helm aport, how would she throw her bow?

A. To starboard; to port until she got a long sternway; she would have to go a mile or two before her rudder would steer her, unless she had a strong breeze.

Q. Do you remember the Indianapolis passing you after you left Robinsons Point? A. Yes, sir.

Q. How far had you got beyond Robinsons Point?

A. I would judge a quarter of a mile; half a mile; not more than that. We were going very slow.

Q. How far off your starboard side did she pass?

A. Oh, about three hundred feet or so; I could not tell exactly. It was similar as I saw the Flyer.

Q. Captain, you are very familiar with the depth of water and so forth between Tacoma and Seattle, are you not? A. Fairly well.

Q. You have been navigating over these waters as master or pilot for thirty years. A. Yes, sir.

Q. And you are familiar with the Government charts? A. Yes, sir.

Q. You think you cleared Robinsons Point about a quarter of a mile? A. Yes, sir.

Q. And you took your course from Robinson's Point?

A. When I had the lights abeam, northwest, half north, magnetic.

Q. And you continued that course until you ported your helm, as you have testified, after signaling to the Virginian? A. Yes, sir.

Q. If nothing had occurred to cause you to deviate in any way from your course, where would that have taken you off Pully Point; how far off?

A. About three-eighths to half a mile.

Q. You have testified in your direct examination that according to your best judgment this collision occurred about a mile south of Pully Point? A. Yes, sir.

Q. Will you take the dividers and indicate as clearly as you can the point on this chart where the collision occurred, according to your best knowledge and judgment.

A. Yes, sir. I would judge I was about here (indicating).

Q. I will mark a circle around the point and opposite put the letter B, as indicating your initial. That represents the point where you think the collision occurred?

A. Where I should judge we were, yes, sir. If I had taken bearings, I could locate it, but I did not.

Q. But you did not take any bearings of Pully light? A. No, I did not have time.

Q. You did not after the collision take any bearings of Pully light or Robinson?

A. No, sir, I was busy starting, and I started back to Tacoma.

Q. About how long were you lying about the place of the collision before you started back?

A. About ten minutes I should judge; as soon as Purdy came back and he said he thought the collision bulkhead was holding. He said we will try and get to Tacoma. I had started originally to get in on the flat here.

Q. Was any report made to you by anyone after the collision that the starboard light was not burning?

A. No, sir.

Q. Did you make any measurements as to the height of the forward deck cargo? A. I did not, sir.

Q. Were the stanchions on the forward cargo retaining the cargo about the same as those on the rear deck cargo?

A. That I could not say; I don't know what the stanchions were aft; I did not go on the after deck at all.

Q. Please look at the photograph, Exhibit D, and observe the forward cargo and its stanchions; were they substantially the same as they appear here on the rear deck of the steamer?

A. I presume they were; I can't state positively; that was not my business to look after those.

Q. You could see the reflection of the red light against three or four of those stanchions on the port side ahead?

A. Yes, on the outside edge of the stanchions, yes.

Q. You could not see the outside of the stanchion; you would have to see the side towards you, would you not?

A. I could walk up the bridge and look forward and see them, yes, sir.

Q. Did you walk out to the forward bridge and lean out and look forward?

A. I did not lean out. I did not have to lean out from that bridge.

Q. You saw the reflection of the red light on more than the first stanchion?

A. Yes, I did, on the outside.

Q. Did you make that observation for any purpose, or simply as a casual thing, leaving the impression of a casual observation?

A. Just looking as I walked back and forth on the bridge.

Q. Did you do that because you had any doubt about the light, or simply the casual observation of which you have the impression now?

A. It is a habit I have, of looking forward and aft. I walk back and forth instead of standing in one position.

Q. You do not habitually have deck cargoes and stanchions in front of you when piloting a ship?

A. Latterly I have, yes, for the last year; I do not know that I have taken a ship out of here without a deck cargo.

Q. Do you know how soon the former cargo was taken off this ship?

A. No, sir, not of my own knowledge.

Q. Were you on the ship Saturday morning?

A. After the collision?

Q. The collision was Friday?

A. Yes, sir, the 12th.

Q. And the next morning were you on the Strathalbyn?

A. I was until about nine, and then came back again about ten.

Q. How long did you remain?

A. I stayed on the ship until she was here on the beach.

Q. When was the forward deck cargo taken off?

A. After we had got onto the beach, they started.

Q. What time did you get on the beach?

A. They had the scows alongside, between 12 and one.

Q. Did you see them take off the deck cargo?

A. I seen them begin to hand off the smaller stuff.

Q. Did you make any measurements of the deck cargo? A. No, sir.

Q. Did you make any examination then of those stanchions? A. No, sir, I did not.

Q. Do you know when those photographs you have identified were taken?

A. No, sir, I could not tell as to those photographs.

Q. Do you know how long after the collision occurred?

A. Some of them were taken,—I saw the photographer,—I don't know whether it was Mr. Hayden's photographer or not, but there were photographers there the minute we got on the beach.

Q. But these particular photographs?

A. After they had got on the beach, or alongside Balfour-Guthrie's dock.

Q. When was that,—after the collision?

A. I think Monday.

Q. Some of them were taken after considerable stripping had been done, you think?

A. Yes, sir, some of them.

Q. Did you make any observations between the time you gave your first passing whistle to the Virginian, and the collision, for the purpose of determining how much you had deviated from your original course?

A. Except the bow bearing on the land.

Q. Do you know how much she had deviated from her course?

A. At the time of the collision, I just glanced at the compass, and she was headed north, to my recollection.

Q. And your course prior to that time had been what? A. Northwest, half north.

Q. How much deviation would that be?

A. That would be three points and a half.

Q. That was after the impact of the collision that you noticed she was heading north? A. Yes, sir.

Q. The impact of the collision with your port helm had swung your ship over to starboard,—your bow?

A. Yes, and we were still swinging to starboard with our propellor backing up; we were changing our range.

Q. You gave your testimony before the inspectors, did you not, recently? A. Yes, sir.

Q. At that time you gave this testimony, to-wit: "I made the remark after I blew my first whistle,—the red light seemed to be getting dimmer and the green very much brighter,—I says I wish to God he would get that helm to port and show me his red more, and then blew." Was that correct?

A. I do not say as to whether it was the first whistle or the second that I made that remark to Purdy; it was at the time he begun to dim his red light.

Q. Now I want you to observe this testimony, and I show you the reporter's transcript as I read it, and ask you if that was the testimony you gave before the Commissioner, to-wit: "I made the remark after I blew my first whistle,—the red light seemed to be getting dim, but the green very much brighter,—I said, I wish to God he would get that helm to port and show me his red more. I then blew; not hearing from him I blew my second blast at him, and stopped her right then, because the red was going dimmer all the time." Was that the testimony you gave?

A. I don't remember giving it that way; no, sir. If it was transcribed rightly it must be, but I don't remember giving it that way. I don't have any recollection of that at all. I had no reason to do it at the first whistle.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. In coming down from Seattle towards Tacoma on the course that these vessels were approaching each other, what would you say as to the ability, on that kind of a night, as at the time of this accident, of the Virginian or persons aboard the Virginian, had there been no lights on board the Strathalbyn, to have made her out?

MR. HUGHES: That is objected to as incompetent, and calling for a conclusion and the guess of the witness as to what he might have done, as to a situation which did not exist.

MR. HAYDEN: You are familiar with that stretch of water? A. Yes, sir.

Q. You have traveled it many times? A. Yes.

Q. Are you able to answer the question which I have just asked you, from your experience?

(Question read.)

A. I could see the Virginian's hull plainly 12 or 1500 feet before she hit us. I don't see, if they were looking, why they could not see us as well, with our white deckload of lumber.

Q. Is there any more reason why you could see the Virginian's hull than that they should see yours?

A. None that I know of.

Q. No difference in the backing of the water, or the lights, that would make the Virginian show up more plainly than the Strathalbyn?

A. No, it was in favor of us, because of the illumination back of Point Robinson.

Q. The City of Tacoma throws a glow in the sky on a cloudy night? A. Yes, sir, all over.

Q. What is the effect of the white cargo of lumber upon the steamer as to her being seen?

MR. HUGHES: That is objectionable as incompetent, and being a guess.

Q. If you ever observed?

A. I have seen it on other ships. I have been able to distinguish the deck load as against the bright hull.

Q. Is it visible for a greater or less distance than a vessel that is dark and has no deckload?

A. It naturally would be, yes, sir, in the night. You can see a white sign better than you can a black sign.

Q. On the courses that you were approaching each other, would the side of your lumber cargo be exposed to the view from the Virginian?

A. At what time, sir?

Q. At the time you ported first for her?

A. It might not be so much at the first porting; it would have been more so at the second, because we were pretty near broadside to him.

Q. When?

A. At the second whistle; between the second and third whistle.

Q. I notice when you placed the position that you considered you were in, on the chart,—have you measured that out from measurements at all, or just recollection?

A. It is merely from my recollection as I looked at the ship for the land back here. At the time of the collision I was heading in here to the slope of this high land back of Pully Point.

Q. You might have been further out?

A. Oh, yes; I might have been out here (indicating).

Q. Where?

A. Out nearer this course; but I was inside. I had changed my course inside Pully and had ported again and the third time I was headed in. I had this land with the City's glow very distinct, this high hill very distinct, and was headed in here at the time of the collision. I understood Mr. Hughes to ask where I thought I was; I did not measure it, but would judge from the point as I remember it as it looked to me.

Q. Do you think you were as much as three-quarters of a knot off your course at the time of the collision?

A. A half to three-quarters.

Q. Do you think you were that far off?

A. I could not say; I had taken no bearings or checks on it.

Q. You judge of your position as marked on this chart by reason of your heading of the vessel?

A. My heading; what I had seen with my eyes; I have not figured it out or measured it out.

Q. Now, Captain, you say when you first ported, you ported so you had Pully Point a little on your port bow? A. Yes, sir, half a point, about.

Q. And the second time you ported, you headed up towards the pit?

A. Towards the gravel; up to where,—where the gravel pit would be.

Q. Now immediately after the collision, after your vessels had drawn apart, in what position did they lie?

A. They laid parallel.

Q. The bow of the Virginian had swung around so that she was about parallel with your course?

MR. HUGHES: Object to that as leading.

A. About parallel with each other.

Q. Was the bow of the Strathalbyn and the bow of the Virginian headed in the same direction?

A. Apparently so, sir.

Q. And at that time about what course would you be on?

A. I did not look at that, sir, I was still backing

after the collision. My thought then was to get her to the beach.

Q. Did you observe anyone on board the Virginian using lights or anything of the kind, after the collision?

A. After we had drawn apart, they lowered a lantern down to see what damage had been done.

Q. What position were you in relative to the Virginian at that time?

A. About this position (indicating).

Q. What is that?

A. We were both backing; we were apparently being pried away from each other.

Q. The bows were pointed towards each other and sterns away?

A. No, the sterns were toward each other and the bows going away from each other. I was waiting for her to get clear, and wanted to get nearer the beach in case she was badly damaged and would not float. I was in such position I could not go out, and the Flyer on the other side, I could not go that way.

Q. The Flyer came up to you on which side?

A. On our starboard side, sir.

Q. At the time the Virginian and the Strathalbyn were approaching each other, and from the time you whistled to the Flyer until the collision, did you observe any smoke from the Strathalbyn that could have in any manner obscured the headlight? A. No, sir.

Q. You spoke about the forestays; you say they carried away; do you know whether more than one carried away?

A. No, sir, I could not say as to that. I think one did carry away; I could not say which one; I do not remember.

RE-CROSS EXAMINATION.

(BY MR. HUGHES)

Q. You had a heavy load when you started from Tacoma?

A. Well that depends on how you view it; we had a fairly good load.

Q. Low in the water?

A. Her usual draft allowed by law.

Q. Well, were you low in the water? A. No, sir.

Q. How high was the deck immediately in front of the bridge above the water; I mean the deck on which the lumber cargo rested?

A. I don't know what the lines are; I could not tell.

Q. What water was she drawing?

A. Twenty-three feet five, I believe.

Q. Do you know what depth of hold?

A. No, sir, I do not know her measurements.

Q. What color was the hull of the ship, of the fore-castle? A. Black.

Q. What was her height above the water compared with the Virginian? A. She was lower.

Q. Very much lower?

A. The Virginian was way up high out of the water, yes, sir.

Q. What was the color of the Virginian's hull?

A. I do not know, sir.

Q. Is it easier to see a ship's hull when she has a list to port than when she has not?

A. You can see the loom of the hull.

Q. When you make out the light of a ship, you can make out the loom of the hull earlier?

A. It depends on whether she is passenger or freight.

Q. On any ship when you make out the light, you have something to focus your vision on?

A. Yes, sir, but if you are up against black woods, you cannot as well as if you have lights back of you.

Q. As a matter of fact if you have a glow in the distance, that would make it more difficult to see a dark object than otherwise, wouldn't it?

A. Not necessarily, no, sir.

Q. Did you have any stern light on this boat that night?

MR. HAYDEN. That is objected to as immaterial and not proper cross examination.

A. I could not say of my own knowledge.

Q. You know nothing about that?

A. I did not go aft.

Q. Did you have any conversation with the Captain of the Indianapolis, Penfield, the next day or subsequent to this collision in regard to the lights?

MR. HAYDEN: That is objected to as incompetent, irrelevant and immaterial and not proper cross examination.

A. I did.

Q. When and where did you have that conversation?

A. In the pilot house of the Indianapolis, going to Seattle.

Q. Did he ask you why you had a light on the stern of the ship and you answered him it was because your lights were poor,—in substance?

MR. HAYDEN: Objected to as incompetent, irrelevant and immaterial.

A. I did not, no, sir.

Q. Or did you say to him that the reason you had that light on the ship was because you were having trouble with your lights?

A. I did not say any such a thing to him, sir.

MR. HAYDEN: That is objected to as incompetent, irrelevant and immaterial, and not proper cross examination.

Q. You testified, did you not, that the Virginian was somewhere from six hundred to eight hundred feet ahead of you when you gave the danger signal?

A. I do not remember that I said that.

Q. What is your opinion on that?

A. When I gave the danger signal, I would judge that distance, perhaps more; it is just a matter of judgment in that case.

Q. And how far away did you say she was when you could make out her hull, independent of her lights?

A. I made out the loom about a thousand or twelve hundred feet. I did not say the hull.

(BY MR. HAYDEN.)

Q. I forgot to ask: Do you remember the time you passed Robinson's Point?

A. Yes, sir; 7:28 by my watch.

Q. Do you remember the time that you came into collision?

A. Well, no, I didn't look at my watch at that mo-

ment. I would judge it was about 7:50 or 7:55 by our time. I had no time to look then.

(Witness excused.)

GEORGE T. CRERAR, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. George T. Crerar.

Q. How old are you? A. Forty-two.

Q. How long have you been going to sea?

A. Twenty-six years.

Q. You are master of the Strathalbyn and were on the night of the collision with the Virginian?

A. Yes sir.

Q. How long have you been master of vessels?

A. About 7 years.

Q. On the night of this accident, were you aboard of her when she left Tacoma? A. Yes, sir.

Q. Where were you when you passed Pully Point?

A. We had not passed Pully Point.

Q. Excuse me, I meant Robinson Point?

A. I was below.

Q. Did anything unusual occur between Tacoma and Robinson's Point?

A. Nothing that I can remember.

Q. After passing Robinson's Point when did you go on the bridge, if at all?

A. I should judge it was shortly after half past seven.

Q. Tell us what you were doing when passing Robinson's Point? A. I was writing.

Q. Why did you go on the bridge?

A. I will take that back, as to half-past seven. I came on the bridge a few minutes after seven.

Q. Then did you go back again?

A. Yes, I went below again.

Q. Then when did you next go on the bridge?

A. I came on the bridge when I heard the whistle blown and the helm put over.

Q. Where was the room you were writing in?

A. Right down underneath the chart room, on the cabin deck.

Q. Take Exhibit D and show me the room you were writing in, by marking a cross with this pen?

A. Yes, sir.

Q. The 5th port light showing above this cross is the room you were in? A. All of the five ports.

Q. What did you do when you left your room?

A. Went on the bridge?

Q. What did you do on your way to the bridge, if anything?

A. I went over and looked at the port side light.

Q. Did you come out on the port side of the ship?

A. Yes, sir, and up the port ladder.

Q. And you looked at the port side light?

A. Yes, sir.

Q. Did you see it? A. Yes, sir.

Q. Was it burning? A. Yes, sir.

Q. Did there appear to be anything unusual or out of the way with it? A. Nothing at all.

Q. Did it appear to be burning brightly?

A. Just as an ordinary light would burn.

Q. Then what did you do after looking at the port side light?

A. I saw a steamer's green light and range light on the port bow, and I walked up on the upper bridge.

Q. Did you watch this steamer after you were on the upper bridge? A. Yes, sir.

Q. This steamer where you saw this green and range lights subsequently proved to be what?

A. The Virginian.

Q. When you got on the upper bridge, what happened?

A. When I got up on the upper bridge, Captain Beecher sounded his second passing signal and stopped the engine.

Q. Did you observe the Virginian approaching?

A. Yes.

Q. How did she appear to be manoeuvring?

A. She appeared to be swinging on her starboard helm when I came on deck, and her range lights were opening.

Q. That is the masthead light, and the main mast light, is that it? A. Yes, sir.

Q. Did you watch her? A. Yes, sir.

Q. Did you watch the navigation of your ship?

A. Well I heard Captain Beecher tell the man to port the helm, and saw him put it aport.

Q. When was that? A. After the second whistle.

Q. What next did you hear?

A. The third whistle from us.

Q. Did you observe the Virginian in the interval between the second and third whistle? A. Yes, sir.

Q. How did she appear to be acting?

A. She seemed to be still swinging on her starboard helm, by the appearance of her masthead lights.

Q. When you went on the bridge did you observe whether or not the masthead light on your vessel was burning? A. I saw it burning.

Q. How could you tell that it was burning?

A. I could see the glare of it.

Q. How did the glare appear?

A. As if it was burning brightly.

Q. Well, on what? A. On the fore-stay.

Q. Now after the third whistle to the Virginian, what occurred?

A. After the third whistle we kept swinging on our port helm, and then Captain Beecher blew the danger signal.

Q. Did you observe whether or not he used the telegraph at that time?

A. He run full speed astern, just after blowing the danger signal.

Q. Did you observe the Flyer coming up to you?

A. When I came on deck the Flyer was just on our port quarter; I would think about a half a mile away,—a quarter to half a mile.

Q. When you first saw the Virginian how far would you say she was from you?

A. When I got on the upper bridge I would say she was about a mile off.

Q. That was then at the time of the second whistle? A. Yes, sir.

Q. What was the interval would you judge, between the first whistle to the Virginian and the second?

A. About a minute or a minute and a half.

Q. What would you judge was the interval between the second and the third whistle to the Virginian?

A. About the same.

Q. What would you say was the interval between the third whistle and the danger signals?

A. About a minute.

Q. After the danger signal was given what would you say would be the length of time that elapsed before the Virginian and yourself came into collision?

A. Well about three-fourths of a minute.

Q. After you gave your first whistle to the Virginian, did you get any reply from her?

A. No reply to any of the passing whistles.

Q. After you gave the danger signal, did you get a reply from her? A. Sometime afterward.

Q. How long would you say elapsed between the time of her replying to your danger signals and the time of the collision?

A. Ten to twenty seconds, I would say.

Q. Did you observe whether or not the Virginian was backing at the time you came into collision?

A. Just before she struck us, Captain Beecher directed my attention to the wash of her water coming up.

Q. Where did that appear to be?

A. Around her stern.

Q. How far forward?

A. It did not get forward at all, but was just beginning to come up. Captain Beecher remarked, "He is just going astern now."

Q. How long was that before the collision?

A. Twenty or thirty seconds; about the same time he blew the danger signal.

Q. What was the angle of the two vessels at the time of the collision? A. About three or four points.

Q. Taking the Strathalbyn as the base line?

A. Taking the Strathalbyn as the base line, three or four points.

Q. On what side was the Virginian approaching?

A. The port side.

Q. On what side did the Virginian hit you?

A. Port side.

Q. Did you observe the two vessels at the moment of the impact? A. Yes.

Q. What did you see? A. Saw the sparks flying.

Q. Did you feel anything? A. I felt the shock.

Q. Was the shock severe or otherwise?

A. Very severe; something what I should expect going full speed ahead into a dock wall.

Q. What was the speed of the Strathalbyn; what was she making that night?

A. From the time we left Tacoma, up to Robinson's Point, Captain Beecher informed me it was making only about six knots. I know she was going very slowly; the revolutions were very far back.

Q. What would you say would be her movement through the water at the time of the collision, if any?

A. At the moment of the collision, I would say we were dead stopped; practically no way.

Q. What was the effect on the Strathalbyn of this impact from the Virginian, as far as making her list or otherwise? A. It listed her over very heavily.

Q. Which way? A. To the starboard.

Q. Did you observe Pully Point light at the time you came on the bridge? A. No, sir, I did not.

Q. Did you observe Pully Point light after the collision? A. No, sir.

Q. I want you to refer to Identification C, and if you know state where the masthead light was positioned on the night in question?

A. Immediately under the electric light.

Q. Where you have placed the cross? A. Yes, sir.

Q. From which I am drawing a line, and marked the letter "O"? A. Yes, sir.

Q. How is that light positioned there?

A. The fork hangs from the base of the electric light which goes into these guides.

Q. Referring to the guides, you mean the rings on the side of the masthead light? A. Yes, sir.

Q. Is this the masthead light which I have in my hand? A. Yes, sir.

Q. Marked Identification "L"? A. Yes, sir.

Q. State how this light, Identification L, is placed in position? A. It is placed in a cage, and held up.

Q. Does the cage in any way obstruct the full circle of the light?

A. Not at all. The cage is exactly the construction of this.

Q. What is the object of the cage?

A. It fits the lamp all around; the object is to hold the lamp.

Q. And these iron brackets or guides extend down from the top of the cross tree?

A. A wire, rope, on each one comes right down to the deck.

Q. And that wire rope is placed through these rings on the masthead light? A. Yes, sir.

Q. And the masthead light is pulled up until it comes solid? A. Yes, sir.

Q. And then it is suspended and held by these two iron rods immediately under the base of the electric light?

A. Yes, sir, under the electric light where I have marked it.

Q. Is that light directly amidships, or is it to port or starboard? A. A little port.

Q. Where does the forestay come; from what point is the fore-stay that leads from near the cross-arms on the foremast?

A. It is shackled onto this band marked forestay shackle.

Q. Would that forestay be in front, directly ahead of this light? A. Impossible.

Q. Why? A. It is down below it.

Q. Did you have any other forestay on the vessel?

A. The foretopmast stay.

Q. That comes from where?

A. From the masthead down to the stem.

Q. Was that carried away by the collision?

A. Yes, sir.

Q. Would that obstruct this light?

A. Absolutely impossible. It is only a small stay.

Q. Is this the same lamp, the identical lamp that was in use on the night of the collision?

A. To the best of my knowledge it is; we have two, they are exactly the same.

Q. Is there any difference in the appearance of the two lamps in any way?

A. I don't think so. They are absolutely identical.

Q. I call your attention to the lamp inside of the glass globe, and to the reflector; is that the kind of lamp you had that night? A. Yes, sir.

Q. Is it exactly the same?

A. I did not look at the lamps.

Q. They are the same lamps; they are the only ones you have?

A. We have only one set, side lights and two mast-head lights.

MR. HAYDEN: I want to introduce that in evidence.

WHEREUPON said lamp was marked Libellant's Identification L.

Q. Now you only have on set of sidelights?

A. Only one set of oil sidelights.

Q. Is this the sidelight that was in use that night?

A. It must be; it is the only one we have.

Q. I will mark that Identification M. Look at it and see if it is in ordinary condition? A. Yes, sir.

Q. The lamp in it? A. Yes.

Q. And the reflector in it? A. Yes, sir.

Q. And the globe? A. Yes.

Q. And the glass in the lamp, is it the same?

A. Yes, sir.

Q. And is the top of it the same? A. Yes.

Q. The verdigris at the top of it the same?

A. I didn't look at that. I don't think it has been touched since it was taken off the ship.

Q. Is there any indication so far as you have been able to discover of any smoke upon that lamp?

A. Of course I did not look at the lamp at all, but I don't think so.

Q. Look at it now; do you discover any indication of smoke upon it in any way? A. No.

Q. Does the lamp have any appearance of having been scoured or cleaned in any way? A. No, sir.

Q. The original verdigris is on it is it?

A. That looks like it.

Q. That is the same glass that was in it on that night? A. It must be.

MR. HAYDEN: We offer that.

WHEREUPON said lamp was ticketed as Libelant's Exhibit M. (M).

Q. And the same reflector? A. So far as I know.

Q. I now call your attention to the other light, the green light, our Identification N. Is that the same light?

A. So far as I know, it must be the same.

Q. It came off your vessel?

A. We have only one set.

Q. Is there any indication of smoke on that that you can see? A. No, sir.

MR. HAYDEN: We also offer that.

WHEREUPON said lamp was ticketed as Libelant's N.

Q. When you looked at the light coming up from your cabin, did you see any indication of smoke upon it or anything that would appear to obscure the view of it?

A. No, sir.

Q. Calling your attention to Libelant's Exhibits C, G, K, J, I, H and E, do they represent the condition of the Strathalbyn after the accident? A. Yes, sir.

Q. Referring to Exhibit G, that shows what?

A. The starboard anchor.

Q. Hanging to what?

A. Hanging to the wreckage.

Q. And exhibit K shows what? A. The bow.

Q. Now that identification fairly represents the wrecked plating? A. Yes, sir.

Q. And Exhibit J represents what?

A. Practically the whole of the damage above the water line, and the anchor hanging on the starboard.

Q. That is what anchor? A. The port anchor.

Q. What is this comparatively white place in here on exhibit J?

A. That is one of the forecastle ports broken.

Q. I will mark that F and P. That was twisted

around practically to a position directly ahead,—the forecastle port that was broken? A. Yes, sir.

Q. How far was that aft of the stem before the accident? A. About eight feet.

Q. Now referring to Exhibit I, this part with the figures, 28, 27, 26, 25, represents what?

A. The lower part of the stem.

Q. And the part above that represents what?

A. The port bow plating.

Q. Bent around to the starboard side?

A. Yes, sir.

Q. Exhibit H represents the same damage to the port anchor, on the starboard side? A. Yes, sir.

Q. Exhibit E?

A. The same thing, taken at a different angle.

Q. What is the space where the letter H is marked on this Exhibit E?

A. That is the alleyway between the forecastle,—this is the forecastle here and that is the locker there.

Q. The part marked H then is the locker?

A. Right forward of the locker.

Q. What is this compartment just forward of the letter E, between the forecastle deck and this deck below it? A. That is the forepeak.

Q. We will mark that with the letter "I" on Exhibit E? A. Yes.

Q. What is the space below the forepeak, back between here? A. Aft here is the chain locker.

Q. That is marked "J"? A. Yes.

Q. And forward of that is the forepeak again?

A. Yes, sir, the lower compartment.

Q. Letter E represents the collision bulkhead?

A. Yes, sir.

Q. And back to the left of that are the number one hold,— A. Yes, sir.

Q. And the perpendicular pieces are what?

A. The frames of the ship.

Q. Referring to Exhibit C, that shows practically the same thing does it? A. Yes, sir.

Q. The damage? A. Just the same.

Q. Exhibit F shows the condition of the windlass?

A. Yes, sir.

Q. How was that chain on the windlass prior to the accident? A. Right over here (indicating).

Q. Across the windlass? A. Yes.

Q. The same as the chain on the opposite side that you can see? A. Exactly.

Q. And the force of the collision broke that windlass down and carried the chain over? A. Yes, sir.

Q. That is chained to the starboard anchor?

A. Yes, sir.

Q. Now as regards all the photographs introduced in evidence, do they fully represent the Strathalbyn and her condition after the accident?

A. I think so, all of these do.

Q. At the time of the accident, did the Virginian appear to be moving?

A. Yes, sir, I would say she was moving very fast.

Q. How long did you remain together, if you remember, after the impact? A. Half a minute.

Q. Did you observe the bow of the Virginian as to whether or not it crossed the bow of the Strathalbyn?

A. Yes, sir.

Q. How far would you say it crossed?

A. Pretty nearly as far as the foremast?

Q. Taking the Strathalbyn as the base line, about what angle did the two vessels come together?

A. About three or four points.

Q. Three or four points off your bow?

A. Yes, sir.

Q. At the time the danger signal was blown from the Strathalbyn to the Virginian, how far apart would you say the two vessels were?

A. About a quarter of a mile.

Q. At that time would it have been possible for the Virginian to have gone to starboard had she acted promptly on receiving the whistle of the Strathalbyn, to have missed the Strathalbyn?

A. If she had gone to starboard,—if she had ported her helm, I think so. If he had ported his helm promptly I think with the speed he had he would have answered his helm in time to clear us.

Q. He had good headway, did he?

A. He must have had.

Q. Whereas your vessel was practically stationary?

A. Very nearly.

Q. Well, was it?

A. I would say it was; certainly without steerage way.

Q. The Strathalbyn was without steerage way?

A. Yes, sir.

Q. Do you know the course that was taken by the Strathalbyn from Robinson's Point towards Pully?

A. No, sir, I did not notice it.

Q. Do you remember the Flyer coming up to you after the accident?

A. Yes, sir.

Q. On which side did she come up to you?

A. On the starboard side.

Q. Did you order anybody to look at the port light at any time after you were on the flying bridge?

A. No, sir; oh, yes, I asked the chief officer.

Q. Who is that? A. Mr. Purdy.

Q. Did he go and look at it? A. Yes, sir.

Q. Did he report to you?

A. He reported to me it was all right.

Q. Did he report from the flying bridge?

A. He came up on the flying bridge.

Q. Did you send him from the flying bridge?

A. Yes, sir.

Q. And he went down below and looked at it and came back and reported it? A. Yes, sir.

Q. About what time was that with respect to the whistles of the Strathalbyn?

A. That was immediately after I went on the bridge; I went to see the light to be sure myself, and had it verified by the chief officer.

Q. Why did you send Purdy down to look at the port light?

A. Because that was the light that was exposed to the steamer that was coming.

Q. Captain, what were you loaded with?

A. Lumber.

Q. Did you have a forward deckload?

A. Yes, sir.

Q. How was that deckload placed on your vessel?

A. In what respect.

Q. How was it loaded aboard of you?

A. By the steamer's windlass.

Q. But how it appeared after it was loaded; how much was put on and how was it held in position?

A. It was held in position by the usual stanchions.

Q. How much deckload did she have?

A. Fourteen feet.

Q. What is the height from the cargo deck or main deck, if you remember, to your chart-room deck?

A. Fifteen feet four inches from the main deck to the chart room deck.

Q. What is the height or the distance between your chart room deck and the light screen?

A. Eight inches I think, I am not sure.

Q. What is the height of the wick of your lamp on the main deck? A. Sixteen feet ten inches.

Q. What is the width of your rail?

A. The main rail is about a foot, I would say; $11\frac{1}{2}$ inches.

Q. Was there anything on your main rail that projects in board from it?

A. On the port side there is a pipe.

Q. How much inside of that rail does the pipe extend? A. About an inch or an inch and one-half.

Q. Did these stanchions extend to a height that would be above the light as it was positioned that night?

A. Yes.

Q. Did you observe the rays of light upon these stanchions? A. Yes, I did.

Q. How did it appear?

A. They would shine on the outside of the stanchions.

Q. What would that indicate?

A. That the stanchions were in line with the,—
(interrupted)

MR. HUGHES: That is objected to as calling for a conclusion.

A. (Continuing) —that the light was showing in a proper manner ahead of the ship.

Q. Were those stanchions in board of the range of the light looking right directly ahead of the ship?

A. Yes, I think so.

Q. When you first observed the Virginian after you came out of your room, what bearing did she have from your vessel?

A. She was about three or three and a half over the port bow.

Q. After you went on the flying bridge and the second whistle was given, at that time about what bearing would she have from you?

A. About two points then; we were swinging.

Q. At the third whistle, about what bearing would she have from you?

A. About three or three and one-half.

Q. Points on your port bow? A. Yes.

CROSS EXAMINATION.

(BY MR. HUGHES).

Q. Captain, what is the capacity of your ship, the Strathalbyn?

A. Seven thousand two hundred tons.

Q. Was she fully loaded?

A. Fully loaded with lumber.

MR. HAYDEN: I wanted to ask about your ship's time, captain, what was that?

A. It was something different from Captain Beecher's, but I don't remember exactly what it was.

Q. Was it intended to be standard time?

A. It was not standard time.

Q. It was different from Captain Beecher's, or was it? A. Yes.

(BY MR. HUGHES).

Q. You say she had a full cargo that night?

A. Yes, sir.

Q. Did she have anything but lumber?

A. Nothing but lumber.

Q. How many thousand feet of lumber did she carry?

A. Three million five hundred thousand; three million, five hundred and sixty-three thousand, I think it was.

Q. How much lumber did she have on her forward deck? A. I could not tell.

Q. You have no record of that at all? A. No, sir.

Q. The ship has no record of it in the log or otherwise? A. No, sir.

Q. You had no knowledge?

A. Not of the quantity.

Q. Of the number of thousand feet?

A. I can give the quantity of the whole deck cargo, but not of either the after deck or the forward deck.

Q. How much was the whole?

A. Nine hundred and sixty thousand.

Q. Do you know what portion was forward and what portion aft?

A. About half and half, I would say, probably a little more forward.

Q. Well, why did you say there was more forward; was the forward deck covered by cargo larger than the aft deck covered by it?

A. No; we generally take a little more forward, on account of the trim of the vessel.

Q. Was the space covered the same?

A. About the same, I would say; I never measured the deck.

Q. How much more did you have forward than aft?

A. I could not say.

Q. Was it two feet higher?

A. Oh, no, I don't think so. We had 14 feet on the forward deck.

Q. Did you measure it?

A. No, sir, I did not.

Q. You are only guessing?

A. I have heard from,—(interrupted)

Q. I want your own knowledge?

A. I did not measure.

Q. On the examination before the inspector you stated that the fore deck cargo was 14 feet 6 inches?

A. Yes, that was estimated to be it.

MR. HAYDEN: Since that time you have heard it was 14 feet?

MR. HUGHES: Let me examine him.

Q. After this collision, did you make any measurements of the forward deck cargo? A. No, sir.

Q. How quickly was this cargo taken off the forward deck?

A. It was not taken off quick enough for me. We did not get started on it until afternoon on Saturday.

Q. And what time did they get it off?

A. Monday morning I think.

Q. Did they work Sunday? A. Yes, sir.

Q. When did they take off the rear deck cargo?

A. Some time after that.

Q. What is the width of the forward deck immediately in front of your cabin? A. I cannot tell that.

Q. Who can if you cannot; do you know?

A. I can tell the beam of the ship.

Q. What is it? A. That is 52 feet.

Q. What space would that make inside the rails?

A. I do not know.

Q. How much does she narrow between the beam of the ship and the bend immediately in front of your cabin or bridge? A. I could not tell you.

Q. Does she narrow any?

A. Well I don't know; I suppose the broadest part would start about there.

Q. The broadest part would be just back of that; the beam of the ship would be a little back of that point?

A. Yes, I think so.

Q. And she begins to narrow as she goes forward?

A. Yes, I think so.

Q. That deck cargo was piled from a point immediately in front of your cabin? A. Yes, sir.

Q. Up to the forecastle?

A. Up to the forecastle, yes.

Q. The forecastle is indicated by the raised portion of the bow of the ship as shown in photograph Exhibit B?

A. They have lockers and an alley way down there.

Q. It would come up to within about how far from the forecastle? A. Three or four feet.

Q. What distance would that be from your cabin up to the end of the pile of lumber there?

A. I never measured that.

Q. You know what the distance is from your cabin to the forecastle? A. No, sir.

Q. Have you any idea or judgment?

MR. HAYDEN: That is objected to as immaterial.

A. I would say about ninety feet.

Q. What is your best judgment and information as to the length of deck supposed to be covered by the forward deck cargo? A. I could not say.

Q. Well, if the distance be about 90 feet from your cabin to the forecandle, and there was four feet of space from the forecandle back to the lumber, it would be something like 85 feet; would that be approximately right? A. If that is the case.

MR. HAYDEN: I object to all that.

Q. How much narrower is the deck just back of the forecandle where the lumber cargo occupied?

A. I do not know.

Q. Have you any idea about that? A. No.

Q. How long have you been master of that ship?

A. Two years.

Q. And you do not know how much she draws in?

A. No; I have had no occasion to measure it.

Q. And you would not have any judgment about it?

A. No, I would not like to trust to my judgment on that.

Q. How much does the deck raise as you go forward from your cabin to the forecandle?

A. That is another thing I cannot tell.

Q. You have no idea about that? A. No, sir.

Q. You could not tell whether it is one foot or six?

A. No, sir; I have no plan of the ship and I have not measured.

Q. You have the plan on your ship?

A. No, I haven't any plan of the ship.

Q. And you cannot tell from traveling over it for three years anything about what the elevation is in the ninety feet? A. No, I could not tell you.

Q. Your ship was equipped with electric lights and dynamo? A. Yes, sir.

Q. Was it so equipped when you took charge of it?

A. Yes, sir.

Q. That equipment was on when you became master of the ship? A. Yes, sir.

Q. When you first went to the ship, you did not serve in any other capacity? A. No, I joined her new.

Q. She was new at that time? A. Yes, sir.

Q. And you had also these auxiliary lights you have identified?

A. Yes, sir; they were supplied by the shipbuilders.

Q. Did you have them inspected after you took charge of the ship?

A. No, they were inspected before I think.

Q. Do you know anything about it?

A. I have had a certificate of inspection.

Q. You had such a certificate on board the ship?

A. Yes, sir.

Q. Do you know when they were inspected?

A. I could not tell the date now, but I know I have a certificate on board.

Q. When did you ever examine that certificate of inspection to know that it covered these lights?

A. I have seen it several times amongst my official papers.

Q. Did you ever have cause to examine it to see that it covered these lights?

A. It is along with my other papers which I have occasion to look at, and I know the inspection light certificate was there.

Q. Did you ever examine it to see if these particular lights were properly inspected in the past?

A. I could not say anything about the lights. These were the lights supplied with the ship and the certificate came along with them as I understand.

Q. You testified on the hearing before the inspectors that you never had these lights in use before; is that correct? A. Yes.

Q. This evening then, on the 12th of January, was the first time these lights had ever been lighted or put in service on that ship?

A. I don't know whether it was the first time they had ever been lighted.

Q. So far as you know it was?

A. No, I don't think so. I think they would have been tried probably that day, knowing we had to use them.

Q. So would I, but I am asking if they had ever, so far as you know, been lighted before this day?

A. Not so far as I know.

Q. And they had never been in use on that ship before the 12th of January? A. No, sir.

Q. Did you inspect them before they were put in use? A. No, sir.

Q. Why did you use them on this occasion?

A. Because our dynamo was broken down.

Q. When did it break down?

MR. HAYDEN: We object to that as immaterial.

A. About a week before we left port.

Q. When did you first learn it would not be prepared and that it would be necessary to use these auxiliary lights which you have brought in evidence?

MR. HAYDEN: I object to this as immaterial.

A. Four or five days before we left Tacoma.

Q. You knew four or five days before you left Tacoma? A. Yes sir.

Q. Did you take any precaution yourself to test these lights when you knew you would have to rely on them? A. I did not.

MR. HAYDEN: We make the same objection.

Q. Did you examine them that night when they were lighted and put in place? A. I did not.

Q. Do you know what oil was used in them?

A. I do not of my own knowledge. I know by hearsay.

Q. Who did fill and light these lamps?

A. I believe it was the third officer, and one of the quartermasters.

Q. What is his name?

A. Mr. Sterling, and to assist him he had a quartermaster named Taylor.

Q. Did you take any precaution to examine these lights before the time when you went up on deck after hearing the passing signal?

A. I looked at the port light as I went up.

Q. Did you prior to that time take the precaution to examine the lights?

A. I think one time before that when I came down off the bridge to write my letters, I took a look at both of the side lights, but I am not absolutely certain of that.

Q. Now, you were writing a letter in your cabin immediately under the flying bridge? A. Yes, sir.

Q. Just before you went up on deck, as you have testified? A. Yes, sir.

Q. Did you hear the passing signal given to the Flyer and the Flyer's answer?

A. I heard our signal; I did not hear his answer.

Q. Did you pay any attention to that? A. No, sir.

Q. How long after that was it you heard the signal which prompted you to go up on the bridge?

A. Oh, perhaps two minutes.

Q. When you heard that signal you went up?

A. Yes, sir.

Q. What caused you to do that?

A. I heard the signal given and I heard the helm go over.

Q. The signal meant that you would port your helm and go to starboard? A. Yes, sir.

Q. So that that did not excite surprise, but what made you go?

A. As soon as I heard the helm go over and the signal at the same time, I generally go and see what it is.

Q. Why? A. Precaution on my part I suppose.

Q. Did the fact that the helm go over immediately after the signal was blown indicate to your mind any reason why there might be danger ahead? A. No.

Q. Why did you go up?

A. Simply because that is a thing I always do, and very often I go out simply on hearing the signal whistle, without hearing the helm.

Q. Was it the signal or the helm that prompted you to go up at that time? A. Both of them.

Q. When you came out of your cabin, you went over to the port side? A. Yes, sir.

Q. And examined the light? A. Yes, sir.

Q. As you came out of the cabin, what was the first thing you saw or observed?

A. I saw this steamer on the port bow.

Q. How much was she on your port bow at that time? A. About a point or a point and a half.

Q. And about how far distant? A. About a mile.

Q. In that position could you see her range lights?

A. I saw the range lights and green light.

Q. You saw her green light and range lights when you were yet on your chart room deck? A. Yes, sir.

Q. As you came out of your cabin?

A. As I came up the ladder on the chart room deck.

Q. You had to go up to get on the chart room deck?

A. Yes, sir.

Q. This is the same deck as the lower bridge?

A. Yes, sir.

Q. And that was the first time you saw the ship ahead of you? A. Yes, sir.

Q. In your situation there wasn't anything to indicate any possible question about the passing of the ships, to your mind? A. Oh, no.

Q. Why did you go over and examine your port light if you had no anxiety?

A. Knowing we had oil lamps I was anxious to see if they were burning.

Q. You felt some uncertainty about the lights?

A. No, not at all.

Q. Why did you examine them?

A. I wanted to be sure of it.

Q. Then you went up at once onto the flying bridge?

A. Yes, sir.

Q. Who did you find there?

A. Captain Beecher and the chief officer.

Q. Where was Captain Beecher at that time?

A. I could not tell; somewhere about midships.

Q. Did you speak to him?

A. I think I spoke to the chief officer first.

A. What did you say?

A. I asked him to go down and look at the port light.

Q. You had just looked at it yourself? A. Yes, sir.

Q. Did you distrust your own vision?

A. Not at all.

Q. Why did you ask him?

A. Simply to verify what I saw.

Q. But you did not have to have a man instantly verify what you had seen?

A. I did so; whatever struck me at the moment, I did it.

Q. Did you have any conversation with Captain Beecher then?

A. I had asked him what that steamer was doing.

Q. Why did you ask him that question, couldn't you see? A. Of course I could see.

Q. Then why did you ask him?

A. Because I did not know the previous position of this steamer, I had only just come on deck.

Q. But her range lights showed the position?

A. Yes.

Q. And the direction she was going?

A. Yes, sir; her range lights were opening so that you could see her swinging on her starboard helm.

Q. That gave you what information; did you ask him the question because you felt doubt as to the navigation of your ship?

A. Not at all; I had perfect confidence in Captain Beecher.

Q. But did you have doubt because of the situation of the other vessel and the fact that they did not answer?

A. No, not at that time.

Q. Did you then know he had not answered you?

A. No, I did not know it at that time.

Q. You heard your whistle? A. Yes, sir.

Q. You came right out on deck? A. Yes, sir.

Q. You heard no answer from the other ship?

A. He might have blown his whistle when I was inside; I did not hear the Flyer's whistle inside, and it may have been the same.

Q. Did Captain Beecher tell you that this vessel had not answered him when you asked him?

A. Yes, sir.

Q. Did he tell you that before you sent your man down to look at the port light?

A. I forget whether it was before or after. I think it must have been after.

Q. How long were you on deck before the second signal was given?

A. I came up on the bridge just as the second signal was blown.

Q. And the second signal had been given before you

sent him down to verify the correctness of your examination of the lights?

A. It was at the same minute that I sent the mate down.

Q. You immediately then after getting on the bridge heard the second port whistle from your ship, and immediately sent your mate down to examine your port light?

A. I could not get it quite so close as that. The whistle was blown after I arrived on the bridge, and I sent the chief officer to look at the light, but whether I sent him down before or after the whistle was blown I could not say.

Q. Can you say now whether that whistle was blown immediately on your getting on the bridge or before or some seconds afterwards?

A. Probably some seconds afterwards.

Q. Was it blown before or after your conversation with Captain Beecher?

A. I could not tell that either.

Whereupon an adjournment was taken until 10:15 A. M. tomorrow.

Thursday, 10:15 A. M., February 15th, 1912.

CAPTAIN GEORGE T. CRERAR, being recalled, testified as follows:

CROSS EXAMINATION CONTINUED.

(BY MR. HUGHES.)

Q. Did you hear an order given by Captain Beecher to port the helm after blowing of this second passing signal, the one which was blown as you say immediately after you came upon the bridge? A. I did.

Q. That was given shortly or promptly after the whistle, was it? A. Yes.

Q. And about how long a time did you state elapsed before the next passing whistle by your boat?

A. Between the second and third?

Q. The second after you came on board but the third given the Virginian?

A. About a minute or a minute and a half.

Q. By that time were you on the port helm, or had she steadied her helm?

A. I think she was still swinging on her port helm.

Q. Were you holding any conversation with Captain Beecher during this interval? A. No, sir.

Q. Did you stand apart from him on the bridge?

A. Two or three yards apart I suppose.

Q. But there was no conversation between you?

A. I cannot recall any.

Q. Or between you and the other officer? A. No.

Q. After the third whistle, did he give a further order to port?

A. I cannot recall whether he did or not.

Q. About how long a time elapsed after the third whistle before the danger signal was given by your boat?

A. From three-quarters to a minute.

Q. During all that time were you on the port helm?

A. I think so; I don't think the helm was steadied.

Q. Do you recall whether any order was given to steady the helm? A. I do not.

Q. At the time of giving the danger signal, Captain Beecher gave the signal to reverse?

A. To reverse the engine, yes.

Q. At that time how near were you to the Virginian? A. I should say about a quarter of a mile.

Q. As much as a quarter of a mile, you think?

A. About that, I think.

Q. How long a time elapsed, according to your judgment, between the danger signal and the collision?

A. About a minute.

Q. According to your figures then you were on the bridge from three to four minutes before the collision occurred? A. Yes, sir.

Q. During that time how many points had your ship swung to starboard?

A. I could not tell; I did not look at the compass.

Q. You are an experienced navigator, and you are all the time, according to your testimony, on the port helm, and you were familiar with the boat. What would be your best judgment as to how much she would swing in that time? A. About three points.

Q. What is the usual speed of your ship when laden as it was then? A. About nine knots.

Q. Why had you not developed more than six and one-half knots that night?

A. I think it was due to the strangeness of the firemen with the coal that we got here. None of my firemen had ever had the kind of coal we got here, and I think it was owing to their unfamiliarity with it and the way it should be applied to the fire.

Q. You would gradually develop more speed, however, would you not?

A. I do not think so. I think the steam had been going back for some time.

Q. What makes you think that; were you in the engine room?

A. No; but I could hear the revolutions of the ship without going to the engine room.

Q. How does your ship handle when the engines are stopped after she is under three-fourths speed, say six or six and one-half knots an hour, on the port helm?

MR. HAYDEN: I object to that question; I think there is no evidence that the vessel was going six and one-half knots.

(Question read.)

A. She would answer the helm all right, for some time afterwards.

Q. How long? A. Until she nearly lost her way.

Q. With the heavy load, how long would she keep her way in the water, that is, your ship?

A. Going at that speed?

Q. Yes. Without reversing, I mean; simply stopping the engine? A. About a half a mile.

Q. That would cover a period of probably ten minutes?

A. I would not like to be positive about that.

Q. And in gradually stopping, she would keep headway for ten or fifteen minutes, wouldn't she?

A. Well, that is something I have never tried.

Q. She would keep headway longer when she is laden than when she is light? A. Surely.

Q. Is your ship a screw propeller? A. Yes, sir.

Q. Single or twin? A. Single.

Q. How does the single screw affect her action on her helm, port or starboard, when she has momentum?

A. Going ahead, it does not affect her much either

way, when going full speed ahead, the tendency of course would be to throw her head to port.

Q. The tendency of the one screw would be to throw the head to port?

A. Yes, with a right hand screw.

Q. It is a right hand screw, is it? A. Yes.

Q. Suppose you had the helm steadied and the engine stopped, with a right hand screw, the tendency is to throw the head which way?

A. With the propeller stopped, she would go straight along.

Q. How does she act when the engines reverse?

A. Throws her head to starboard.

Q. With the helm steadied? A. Yes, sir.

Q. When she has some momentum forward, will she not throw her head to starboard, with the engines stopped—I mean with the engines reversed?

A. With the engines reversed.

Q. Before her headway is overcome?

A. With the engines reversed and with headway, it would throw her head to starboard.

Q. And her stern to port? A. Her stern to port, yes.

Q. And that is increased of course with a port helm; that tendency to throw the stern to port would be increased with a port helm when you reversed, before the headway of the ship is overcome?

A. No, I don't think so.

Q. After she overcomes headway on the reverse of the engines, with a port helm, how does the ship manoeuvre? A. Immediately after?

Q. Yes; as soon as she begins to get sternway?

A. She would still throw her head to starboard after getting sternway.

Q. With a port helm? A. Yes, sir.

Q. How long would she have to run astern?

A. She would have to have pretty good sternway before she would answer her helm against the throw of the propeller.

Q. Is that on account of its being a right hand screw?

A. Well, when you reverse your engines you give your ship's head a swing to starboard, which would take

some time to overcome, even after she had sternway.

Q. After the third passing signal was given to the Virginian, the second one after you came on the bridge, did you have any conversation with Captain Beecher?

A. I cannot recall that, whether I had.

Q. Don't you remember whether you conferred with him at all? A. No, I do not.

Q. What is your best recollection; did you or did you not confer with him? A. I cannot remember.

Q. Did you confer with your first officer about the situation? A. That I cannot remember either.

Q. You still had only the green light of the Virginian at all times after you came on the bridge?

A. Yes, sir.

Q. And her range lights were open? A. Yes, sir.

Q. So that it was apparent to you all the time that she was crossing your course? A. It looked like that.

Q. What conclusion did you reach as a navigating officer from her failure to answer your passing signals?

MR. HAYDEN: That is objected to as immaterial.

A. I do not know that I came to any conclusion.

Q. Did you take any further steps to ascertain whether your lights were visible? A. No.

Q. Did you have any flare lights on your bridge?

A. No.

Q. You had none at all? A. No, sir.

Q. No flash light of any kind? A. No, sir.

MR. HAYDEN: That is objected to as immaterial.

Q. Did you have any lanterns there?

MR. HAYDEN: I want the same objection entered.

A. Not to my knowledge.

Q. Did you attempt to give any other signal to attract the attention of this vessel than those which you have named, the whistles given? A. No, sir.

Q. Did you know anything about the exact locality you were in, as to the sea room you had or the depth of the water there at this time?

A. Not at that time, I had not.

Q. Did Captain Beecher say anything to you about that?

A. I cannot recall whether he did or not.

Q. When the two vessels collided, you were still on the bridge? A. Yes, sir.

Q. You were watching the vessel ahead of you all the time? A. Yes, sir.

Q. How long prior to the actual collision was it apparent to you that the collision would take place?

A. Shortly after we had given the danger signal.

Q. Then say from a half a minute or such a matter?

A. Twenty or thirty seconds.

Q. During that time was there any alarm or signal or flash or flare lights or anything given from your ship, or warning of any kind? A. Not to my knowledge.

Q. The two ships came together so that the Virginian struck six or eight feet back of your stem on the port side as you think? A. Yes, sir.

Q. And about three points on your port bow—she was heading? A. Three or four, I would think.

Q. You gave your testimony before the inspectors of boilers and hulls in Seattle recently did you not?

A. Yes, sir.

Q. Do you recall that they asked you to indicate the angle of the collision, giving you two small models?

A. Yes, sir.

Q. And that you located them by those models, indicating the angle at which they came together?

A. Yes, sir.

Q. At that time the question was asked you by Captain Whitney whether that angle was about three points, and you answered about that (reading): "Q. As you think they lay down there", and you answered, "Well, I would say a little less than three points; two points." Is that correct? A. That is correct.

Q. Did you testify on yesterday that you examined the lights of your vessel at any time except when you came out of your cabin and went out on your bridge after the first passing signal was given the Virginian. Did you examine the lights at any other time?

A. After the first time I looked?

Q. Before that; at any other time than that one time? A. From the time of leaving Tacoma?

Q. Yes.

A. I have some recollection of looking at them be-

fore I went down to write my letters, but I would not be sure about it.

Q. At the hearing before the inspectors, you testified, when asked whether you had examined them on more than one occasion, and you answered, "Just on the one occasion before the collision". Do you think that was the correct answer?

A. As I said, I cannot remember. I have a hazy recollection of looking before I went to write, but I would not be certain about it.

Q. Cargo was on the main deck was it? A. Yes, sir.

Q. You testified yesterday as to the height of the bridge, the lower bridge, and the lights above the main deck? A. Yes, sir.

Q. When did you make any measurements to determine that? A. About a week ago.

Q. That was after the cargo had been removed from there? A. Yes, sir.

Q. How did you measure it? A. With a tape line.

Q. Did you use a plumb line? A. A tape line.

Q. From what point did you measure?

A. The far side of the cabin.

Q. You measured from in front of the cabin up to the foot of the bridge? A. Yes.

Q. Did you take a measurement as to the height of the screen board above the lower bridge deck?

A. No, sir, I did not.

Q. How did you get at the figures you gave yesterday?

A. On my judgment, I think. I measured the height of the lamp from the main deck.

Q. The lamp sets right in the screen? A. Yes.

Q. You took a measurement with the tape of the height of the lamp over the main deck? A. Yes, sir.

Q. That is you measured the height from the main deck to the bridge deck and then separately measured the height from the bridge deck to the lamp?

A. No, I measured from the main deck to the lamp.

Q. How did you get at that?

A. With the tape line.

Q. Did you drop a tape line from the bridge deck?

A. Yes, sir.

Q. Did you use a plumb to see that it was straight out? A. Yes, sir.

Q. Dropping it right straight down from the screen where the lamp is or from the lamp to the main deck?

A. Not from the lamp.

Q. From what did you drop it?

A. From the line of the height of the lamp.

Q. Then in front of the lamp; the lamp sets back a little so that you had to take a point on the railing of the lower bridge and drop your line on a level with the lamp to the main deck? A. Yes, sir.

Q. And used the plumb line so that it would straighten out? A. Yes, sir.

Q. How far inside the railing was that plumb lead when it touched the deck below?

A. About three or four inches.

Q. Did you measure that?

A. No, but I would say that it was three or four inches.

Q. You estimated as you looked over from the deck above? A. Yes, sir.

Q. You took no precaution to have that measured?

A. No.

Q. What do you say is the width of the railing?

A. The main rail?

Q. The main rail to the main deck?

A. Eleven and one-half inches.

Q. Does the ship have an in board, does it turn in from that rail up to the lower bridge deck; that is from the outside rail? A. Yes, it turns in a little.

Q. How much is the end of the lower bridge inside of a vertical line extending upward from the outside of the rail?

A. It would be the breadth of the rail plus that three or four inches.

Q. But the upper bridge is in a good deal more than that, isn't it. The end of the upper bridge is considerably more inside of the outside line of the ship at the railing than 15 or 18 inches, isn't it? A. Oh, no.

Q. Please examine the photograph I hand you, Captain, and answer me whether that correctly shows the

ship Strathalbyn, looking from forward back at the bridges of the ship on the main deck?

A. Yes, I would say so.

Q. The letter A here represents the port end of the flying bridge, does it? A. Yes, sir.

Q. The letter B represents the port end of the lower bridge? A. Yes, sir.

Q. And that letter B is just about the screen board, isn't it? A. Yes, sir.

Q. Really I think on top of it? A. No, right on it.

Q. The screen board comes up to the middle of the letter B? A. Yes.

Q. And it is visible in the shadow there, that line extending from the middle of the letter B downward is the screen board, is it?

A. Yes, I suppose that is the screen.

Q. Now the men whose pictures are shown here are standing on the main deck? A. Yes, sir.

Q. And the port holes seen back of it are the port holes of your cabin? A. In the saloon.

MR. HUGHES: I offer this in evidence.

Whereupon the said photograph was marked as Respondent's Number Four.

Q. Looking at respondent's exhibit four(the railing on the port side of the ship is shown here at the letter C? A. The hand rail.

Q. That is the main rail on the port side on the main deck? A. Yes, sir, just above the deck.

Q. How much is that above the deck?

A. About four feet; I have not measured it.

Q. And that rail extends all along the port side to the forecastle head? A. Yes, sir.

Q. Now, captain, did you have anything to do with the loading of the deck cargo on the fore deck?

A. No, sir.

Q. You were about there, however, while it was being loaded? A. I was aboard every day.

Q. Was it loaded right up against the saloon cabin or was there an alley-way between?

A. There was no alley-way; it was right up against the saloon cabin, with the exception of two or three

inches to keep the chafe of the wood off the front of the cabin.

Q. Was it loaded right up against the ship's rails on the port and starboard side? A. No, sir.

Q. What intervened? A. The stanchions.

Q. What kind of stanchions?

A. The usual lumber stanchions.

Q. Well, what dimensions? A. Six inches by ten.

Q. These stanchions were set upright just inside of the railing, were they? A. Not quite upright.

Q. Nearly upright, enough to hold the ship's cargo there?

A. It is the practise to let the stanchions tumble home a little at the top.

Q. Just like the ship tumbles home?

A. Much the same.

Q. At what spaces were they set along the rail?

A. Well, I could not say; ten or twelve feet.

Q. Did they extend above the deck cargo in front?

A. Oh, yes.

Q. I will ask you to examine Libelant's Exhibit B, being a photograph of this ship taken after the deck cargo in front had been removed? A. Yes.

Q. The deck cargo in the aft deck was still on board when this photograph was taken? A. Yes.

Q. Now I will ask you if the stanchions appearing there which held the deck cargo in the rear were the same kind as were used to hold the deck cargo on the front deck, or forward deck?

A. The same diminsions, six by ten.

Q. And they stood upright in the same way?

A. That I could not tell.

Q. You saw it day after day?

A. Yes, but I didn't take particular notice.

Q. But I will ask you now to look at this photograph; you said yesterday it was correct; now then I will ask you if that photograph is correct.

A. Yes, I think so.

Q. Looking at this photograph and seeing those stanchions, tell me whether the stanchions which held the forward deck cargo were located about the same as those which you now see on the aft deck cargo?

A. No, I do not think I could tell that; I could not say that.

Q. About how much did they extend above the top of the cargo?

A. The stanchions were not all the same length. I think some extended about four feet; some about six feet.

Q. You say these were six by ten? A. Yes, sir.

Q. Not having observed very carefully, how do you know that?

A. The usual stanchions; it is the stanchion that is always used.

Q. Which side of the stanchion was placed against the rail, the six inch dimension or the ten inch dimension?

A. The ten inch dimension.

Q. Put right up against the rail?

A. On the starboard side.

Q. Well, on the port side, put up against this pipe?

A. No, we could not put the stanchion up against the pipe. We put a chock in between the rail and the stanchion to protect the pipe.

MR. HAYDEN: What pipe is that?

MR. HUGHES: The one he has testified to on the port rail, shown on Exhibit Number 4.

Q. Were they put so that the ten inch facing was parallel with the rail? A. Yes, sir.

Q. And these stanchions were placed there for the purpose of holding the cargo so that it would not spread out and fall off the ship? A. Of supporting the cargo.

Q. I asked you yesterday how much the port rail of the ship came in toward the stem in the distance between the saloon cabin and the forecastle cabin; can you tell me any better now than then? A. No.

Q. Did it follow in at all? A. Yes.

Q. Several feet?

A. I could not say; the ship naturally gets narrower the further forward you go.

Q. You testified before the inspectors that the distance between the saloon cabin and the forecastle bulkhead was from 90 to 100 feet; is that about right?

A. I think so. I never measured it.

Q. And how much distance would be from the forecastle bulkhead to the stem of the ship?

A. I do not know that.

Q. How long is the whole of the ship, do you know that? A. Yes.

Q. What is it? A. 387 feet.

Q. How much is the front end of your saloon cabin in front of the center of your ship?

A. I cannot tell that.

Q. So you have no way of giving any estimate or judgment as to the distances in front of your saloon cabin to the stem of the ship or forecastle bulkhead?

A. No; it would only be a guess, if I made it.

Q. How far was your foremast in front of the ship?

A. It would only be a guess.

Q. Well guess; you should be able to form some sort of judgment after commanding that ship for two years?

MR. HAYDEN: That is objected to as not proper cross examination.

Q. Isn't it pretty nearly half way between that bridge and the forecastle bulkhead?

A. Yes, about half way I would say.

Q. And how high is that mast up to the cross tree?

A. 45 feet.

Q. These lights were burning what kind of oil that night? A. Colza.

Q. That is merely your information. you don't know personally? A. No.

Q. Did you ever examine or inspect these lights prior to that collision? A. No, sir.

Q. Do you know personally where they were kept in the ship during the two years that they were carried without being used? A. In the lamp locker I suppose.

Q. But you do not know personally?

A. I do not know.

Q. Did you ever inspect them at any time after the collision and before they were brought into court here?

A. No, sir.

Q. Then you know nothing about their condition except as they appear here now? A. No, sir.

Q. You did not see them put up at night?

A. No, I did not.

Q. Do you know whether they have been used since that night of the collision? A. I do not think so.

Q. When your vessel went over to Victoria, she went by day? A. Yes; they were using electric lights.

Q. Well, she went by day anyway?

A. Yes, but it was dark before we got to Port Townsend and we had occasion to use the lights.

Q. You stopped at Port Townsend over night?

A. Yes, sir.

Q. Do you know where the oil was obtained which was used in these lights?

A. Out of the tank, I suppose.

Q. Well, it was not always in the tank, was it; where was the oil obtained that was on board the ship?

A. Where was it supplied? In England.

Q. And when was this colza oil obtained?

A. In July last year.

Q. You are sure about that? A. I think so.

Q. Are you sure about it? A. I am not sure.

Q. Whose business would it be to get that?

A. The chief officer would be able to give you more information about that?

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You say you are not sure where this colza oil was obtained; was it reported to you to have been obtained in regular course of business last July?

MR. HUGHES: I object to that as calling for hearsay evidence.

A. I am sure that colza oil was supplied to the ship in England, last July.

Q. That is you know that in the ordinary course of the ship's business, as master?

MR. HUGHES: That is objected to as leading.

A. In the ordinary course of the ship's business; it is my duty to pass the order for all these stores.

Q. And did you order colza oil at that time?

A. Colza oil was ordered on the store list.

Q. You said that the stanchions when they are placed, tumbled home in the ordinary way; is that so?

A. That is the usual practise.

Q. That is before the lumber loaded on the vessel is completed, on the deck load? A. Yes.

Q. When the deck load is completed, is anything else done with it, to make it fast? A. Yes, it is lashed.

Q. Explain please how it is lashed?

A. It is lashed with—in case of the forward deck, and the after deck precisely the same, with three spans on each side, which are made fast onto the stanchions on the bulwarks, and the bights are brought over on top.

Q. On top of what?

A. Over the top of the deck cargo.

Q. Where are these rings or chains on the bulwarks with respect to the main deck?

A. They are right down on the main deck.

Q. And the chains are brought up over the lumber?

A. They are wires; they are brought over the lumber and set up tight by the winches.

Q. How are they set up tight by the winches?

A. There is a block put on each bight. I could explain it better by a drawing.

Q. Well, say this is your house and this is your forward deck load; explain how that lumber is made fast on your deck?

A. There is a block in each of these bights (indicating), through which the wire goes, and is taken down from the lead block to the winches, down here, and set up tight.

Q. Show that here? A. Here (indicating).

Q. When they put that lumber up, then it is set up with steam power? A. Yes, sir.

MR. HAYDEN: I will call that sketch identification 0.

Q. Do they exert much power on that to set it up?

A. Yes, certainly.

Q. Tell us how it is done?

A. They take the wire down to the winch and have a man at each of the bights with a hammer, who hammers the wire as it is hove on the winch.

Q. That is at each block where the wire runs to the block? A. Yes, sir.

Q. And he hammers it for what purpose?

A. To tighten it up.

Q. So that it will go through the block?

A. So that it will come through the block.

Q. What effect has that on the lumber?

A. It binds the lumber close together of course.

Q. Does it make it draw in closer together?

A. Certainly, I should say so.

Q. Now after it has been drawn together by this process, what is done with the stanchions?

A. They each have a separate lashing as well.

Q. What kind? A. Wire lashing set up with tackle.

Q. Tackle attached to what?

A. Attached to the stanchion above the deck load.

Q. And how is it set up?

A. Also set up with the winch.

Q. What effect has that on the stanchion, or the deck load?

A. It tightens the stanchions up against the deck load, which has been previously drawn together by the bights.

Q. What does that do to the stanchion?

A. It draws it inboard, of course.

Q. How far was this first stanchion forward of the light on the port side, if you remember?

A. To the best of my recollection, ten or twelve feet.

Q. When you got into port after this collision, did you make any measurement at that time?

A. Not at that time.

Q. Why not? A. Because I was too busy otherwise.

Q. What were you occupied with?

A. Arranging our discharge of the ship and pulling her on the beach here; I had my hands full.

Q. I intended to ask you on direct examination whether or not you had any water in your hold when you arrived at Tacoma after this collision? A. Yes, sir.

Q. What was the condition of your number one hold? A. It was full level with water outside.

Q. Did you have any water in number two hold?

A. Not on arrival here, but we had before we put her on the beach.

Q. In other words the water commenced to come in through the bulkhead between the holes?

A. No, the water ran down the hatches. The ship listed until the hatches got under water.

Q. And the water went down the hatches? A. Yes.

Q. The main deck hatch? A. Yes, sir.

Q. How much water did you have in Number 2 hold? A. Eighteen feet.

Q. How far aft does number two hold extend?

A. I could not tell that exactly; somewhere underneath the saloon.

Q. You say, do I understand, that when this line was dropped down from the light screen, that from the inside of the light screen it showed when the line was dropped down from the inside of the light screen, that it was some three or four inches inside the rail?

A. Yes, sir.

Q. Do you know whether this vessel was making six and one-half knots from Robinson's Point on?

A. Judging by the sound of the propeller and the look of the water outside, I should say she was going less.

Q. What would you say she was making?

A. Something under six.

RE-CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. When you left the port of Tacoma that night were you on an even keel?

A. No, we had a list to starboard.

Q. How did that happen?

A. That is a usual thing with lumber ships. I never loaded a cargo yet without having a list, on any ship I have been on.

Q. Do you go to sea with a listed cargo?

A. Sometimes.

Q. What caused the list; was it bilge water?

A. No, the deck cargo.

Q. The deck cargo? A. I expect so.

Q. You carry that list all through the voyage?

A. Oh, no, not necessarily; sometimes the list is out before you get down to the straits.

Q. What causes the list to pass off?

A. Working the helm one way and another.

Q. She had a considerable list to starboard did she?

A. Yes, sir.

MR. HAYDEN: Q. About what list did she have to starboard? A. Six degrees.

Q. When she started? A. Yes, sir.

(BY MR. HUGHES.)

Q. Where did you unload your cargo?

A. The previous cargo?

Q. The cargo you had on board that night?

A. The lumber cargo?

Q. Where did you unload that cargo?

A. Partly here and part at Esquimalt.

Q. What portion did you unload here?

A. About a million feet.

Q. And how much at Esquimalt?

A. We have not ascertained that yet. That will be ascertained when we reload, but I should say about a million and a half, roughly.

Q. But you had more than two million and a half?

A. Yes, but we have some on the ship yet.

Q. In the hold? A. Yes.

Q. And you are not intending to unload that? A. No.

Q. Did you unload any cargo from the ship here, except your cargo carried on the forward deck?

A. Oh, yes.

Q. What other cargo did you unload?

A. We discharged lumber between one and two 'tween decks; part from number one hold, and part of the after deck, sufficient to get the hole made by the collision above the water.

Q. I want to say I am asking these questions so that we may investigate as to the cargo. Do you testify now that you only unloaded one million feet here?

A. I would not be exact in the figures. That cargo will be remeasured on reloading. This is simply an estimate.

Q. Where did you unload it here?

A. Partly out in the Bay and partly at the Milwaukee dock.

Q. Where was it taken, that which was unloaded in the Bay? A. To the Milwaukee dock.

MR. HAYDEN: We object to all this as improper examination and immaterial.

Q. And it is all at the Milwaukee dock that you unloaded in this city? A. Yes, so far as I know.
(Witness excused.)

CAPTAIN HERBERT F. BEECHER, being recalled, testified as follows:

FURTHER DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. You were asked yesterday by Mr. Hughes to position the Strathalbyn as it appeared to you on the night of the collision? A. Yes, sir.

Q. And you put a black mark down, marked B?

A. Yes, sir.

Q. And I asked you afterward if you would say that was the position, and you said that —(interrupted).

MR. HUGHES: I object to this as leading, mere repetition.

MR. HAYDEN: (Continuing question)—and you said it was somewhere between that point, and moved your finger over to the course? A. I did, sir.

Q. Since that time have you thought over the situation? A. I have, sir.

Q. Do you wish to make any correction as to the position of the Strathalbyn as she must have been, from what you know to be the facts?

A. I would like to make a correction there, yes, sir.

Q. State what correction you desire to make; state it in your own way, without my asking questions?

A. I was figuring last night the speed and the time, and the difference between my time which was my own watch, and the engine room time, and it occurred to me that I could not be quite as far along on this position as I had thought from my observation at the night time, owing to the shore line looking at that time very close. As a matter of fact we got under way, by my watch, at 6:12. We were here (indicating) at 7:28; that is at Robinson's Point, had the light abeam and hauled on to my course. At the time I was making then, to make the distance from Browns to Robinsons at the previous figures, I could not be making more than 608 feet to the minute, and figuring that all out, I placed myself in my

mind then, on the chart afterward, at a position about there (indicating).

Q. You say there was 12 minutes difference between your time and the —(interrupted).

A. And the time from the engineer's log, according to his bells.

Q. And the engineer's log showed the collision occurred at 7:38?

MR. HUGHES: Object to that as improper and immaterial, and leading.

A. Yes, sir, that is it.

Q. Is that how you happened to figure your distance?

A. That is the way I figured it out, and that would place me here (indicating).

Q. What time then would the collision have occurred by your time?

A. At about 7:50, by my watch.

Q. I want you to take, as you told me this morning, and put a mark down there on that chart as near as you can tell at the time you gave your first whistle to the Virginian, at the rate you were going?

A. Here (indicating).

Q. How do you figure that?

MR. HUGHES: We object to this as incompetent.

A. Figuring my previous speed was at the rate of 608 feet a minute, I make the same figures and carry them along and that would bring me along a mile and three-quarters from Robinson's Point, and that was the place.

Q. Is that at the time of the collision?

A. No, at the time I gave my first whistle.

Q. Well mark this "B-1", a point in the circle?

A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Now what did you do?

A. I blew my first whistle to the Virginian and ported my helm.

Q. And headed towards what point?

A. Inside of Pully Point.

Q. And went for how long? A. About a minute.

Q. Put down the distance you would be inside Pully Point as you think you were for that minute's run?

A. Six hundred and eighty feet—I could not measure it. It would be a little less than half a quarter, but there is no scale here. I would judge that would be the distance.

Q. Put your rule down so that you will get the directions as well as the distance?

A. That of course is not absolutely as to a foot, but I would judge it would be there.

Q. At this point? A. Yes, sir.

Q. I will put that in a circle and mark "B-2".

A. Yes, sir.

Q. Now as I understand your testimony, that is the point where you stopped the engines?

MR. HUGHES: Object to that as leading.

(Question withdrawn.)

Q. I want you to state it in your own words?

A. I blew my first whistle and ported the helm, and at this point I blew the second whistle, stopped the engines and blew again, this point two.

Q. And in what direction did you head at that time?

A. I headed in shore at about the same direction as marked on the chart, where the gravel pit is.

Q. Mark that on the chart?

A. About here, judging from this hill back on Pully Point. At that time I would not be going more than 400 feet to the minute, and I could not measure that, but it is much less than the other. It would be about here (indicating).

Q. This line that runs out, shaped like an arrow, and marked "Beecher 3"? A. Yes.

Q. Now do I understand that, to be what?

A. That is the position where she was going with her headway.

Q. And this is the general direction? A. Yes.

Q. This extension of dotted lines are simply the directions you think you were going?

A. Yes, sir; not from the compass, but merely from land bearings taken by my eyes. Then on my third whistle, I backed at full speed and she still kept swinging to port with her backing wheel, and at the time of the

collision she was heading in line like this (indicating), and I could not have been going any distance at all when the collision occurred. I was practically stopped, if not having sternway, stopped.

Q. Now on these lines, to make the testimony clear, mark one for the first direction; that is the direction you were heading when you first ported? A. Yes, sir.

Q. Now mark the line that shows the direction when you second ported? A. X-2.

Q. Mark the line you were headed at the time of the collision? A. X-3.

Q. Is there anything more you want to say about that correction; if not, that is all.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You talked this over last night, did you?

A. Yes, sir.

Q. Did you think it over in connection with Mr. Hayden or anybody else?

A. In the testimony yesterday—

Q. I am asking the question.

A. I was leading up to that. In the testimony given yesterday there were so many other things asked that when I got out of the court room I was thinking of our speed, and I then spoke to Mr. Hayden and we talked of it.

Q. Didn't Mr. Hayden speak to you and tell you that you had put yourself in an impossible position on this chart?

A. I don't think he did, no, sir.

Q. Didn't he tell you it would be necessary for you to correct it? A. No, sir.

Q. Didn't you go to his office and take the chart and go over this matter and fight it out?

A. I was in his office this morning, and we talked it over.

Q. And you platted it out?

A. I figured it out last night and this morning.

Q. What time did you have that night?

A. I had Suter's time in Seattle, 1:20; I always compare my watch with his chronometer.

Q. That would be local time? A. Yes.

Q. And that is the same time that the Flyer has?

A. I suppose so; I do not know.

Q. You compared your watch that day?

A. No, sir. I compare my watch every time I go by in Seattle; they look at my watch and give me the seconds it has lost or gained.

Q. Does your watch vary? A. A very little.

Q. It is a fairly accurate chronometer?

A. It is a splendid watch. We run from here to Esquimalt on it as a chronometer.

Q. It varies very little? A. Yes, sir.

Q. Your watch then would not be more than a few seconds from the standard Seattle time? A. A very few.

Q. Your observations show you that Suter's chronometer would not vary more than a few seconds from the others in the city?

A. He gets it every day or so.

Q. You have noticed other chronometers and they vary a very few seconds? A. A very few.

Q. Did you note during that evening at all the difference between your time and the first officer's time, or the ship's time?

A. No, sir, I never knew the time he had at all.

Q. Did the ship have a clock for the quartermaster?

A. No, sir, there was no clock on the flying bridge where I was.

Q. Do you know where they kept the ship's time?

A. It was in the wheel house below, on the lower bridge.

Q. Was there anybody in the wheelhouse below?

A. Not all the time, the quarter, or the watch, generally stood there.

Q. Did you compare your time that night with the ship's time? A. No, sir, I did not.

Q. You had no means of knowing how it compared with the ship's time? A. No, sir.

Q. Did you take your own time by your own watch?

A. I did, sir.

Q. When? A. On starting.

Q. And left here at what time?

A. 6:12, by my watch, under way.

Q. You had left the dock?

A. We had left anchorage, and as soon as they informed me that the anchors were weighed, I went ahead slow, and then went ahead full speed when we got the hawse.

Q. And then took your time?

A. When we went ahead slow, when we were under way.

Q. Did you make a record of that yourself?

A. I carried it in mind, and—

Q. How did you come to remember it?

A. I keep the time of my arrival and departures.

Q. But you made no record in any memorandum book or log book?

A. I have a little pocket log which I put it in every day, and where I am, the weather and so forth.

Q. Did you make a record in your pocket log?

A. Yes, sir, "6:12, under way".

Q. Will you show that to me? A. Yes, sir.

Q. Did you take the notice of the time that you had Point Robinson abeam? A. Yes, sir.

Q. You did not record it here? A. No, sir.

Q. When did you record this here, was it after the collision? A. No, sir.

Q. Did you record it in this book?

A. On getting under way. After the collision, I recorded everything else, "leaving north end—and under way, 6:15 P. M."

Q. That is the last entry you made?

A. Up until after the collision.

Q. How long after the collision did you make any other entry?

A. I made the other entries after we got back to Point Robinson.

Q. Now how do you know what time you passed Point Robinson if you made no note of it?

A. I looked at my watch.

Q. You are speaking from recollection as you did not record it?

A. The mate recorded it; he asked the time.

Q. Did you tell him what time?

A. I told him the time, yes.

Q. What time did you tell him?

A. Seven twenty-eight when we rounded Robinsons.

Q. That was your time? A. Yes, sir.

Q. And he recorded it as you told him?

A. I suppose so; I did not see him.

Q. How did the mate get the time on starting from Tacoma; did you give him that time?

A. No, sir, I did not.

Q. How did you get the time when you stopped your ship after you blew your second whistle?

A. Merely from the time I had left Robinsons.

Q. Then after that time it is all a matter of judgment; you did not look to see what time it was when you gave any of these whistles or when the collision occurred?

A. No, sir; I looked at my watch the next time as I went ahead from Point Robinson after the collision.

Q. But that was some moments?

A. It was a difference of 32 minutes, by my watch; I had no chance to look; had no lights unless I struck a match, and did not have time to strike a match.

Q. When you looked at your watch, it was after the collision? A. Yes, sir.

Q. How long after the collision?

A. Well, I could not say, but five or six minutes I would judge; perhaps ten.

Q. Did you make any record of the time when you looked at the watch then?

A. Only by memory, and when I put her on the beach I took out my watch and saw the time.

Q. But did you take any record of the time or examine your watch as to any matters that occurred after you began to signal to the Virginian?

A. No, sir; I had no lights; I had no time to strike a light.

Q. But what your watch registered, you do not know? A. No, sir, I do not know definitely.

Q. You do not know anything about any of the particular times as indicated by your watch with respect to the various signals that were given, or with respect to the time of the collision?

A. No, sir, only a matter of judgment.

Q. Did you at any time compare your time with the ship's time or with the mate's time? A. No, sir.

Q. With the one exception that you gave him the time of 7:28 passing Point Robinson, he would receive no time from you to record?

A. Not that I recollect, no, sir.

Q. You gave your bell full speed astern after you blew your third whistle, and about the time that you gave the four blasts?

A. I blew my third whistle, my recollection is, and rung the bell simultaneously. I was standing with one hand on the whistle rope and telegraph.

Q. Did you not wait until you should have received the response to your third whistle before ringing your bell full speed astern? A. No, sir, I don't think so.

Q. When did you make your memorandum in this pocket log? A. Which memorandum?

Q. The entries in the pocket log which you have referred to?

A. I made the memorandum of starting just as we started, and the others I made after we got to Point Robinson, from memory as I had looked at my watch.

Q. When did you record this entry which I now read from your pocket log: "After blowing one whistle three times and no response, full speed astern"?

A. That was written after we got into Robinson.

Q. Then the fact was correctly recorded there, wasn't it, that you gave each of those whistles and waited to see that there was no response to your last whistle before you ordered full speed astern?

A. That was written in a hurry; that was not made as a regular entry but a memorandum. My recollection is I gave the full speed astern at the same time I blew my third whistle, and I think I so testified yesterday.

Q. Did you make an examination right after the collision, or have one made?

A. The chief officer went forward and made one.

Q. Did you take your time then? A. No, sir.

Q. I see you have recorded that the examination was made at 8 o'clock; where did you get that time?

A. When I decided to go to Robinson and started ahead, he told me he thought—(interrupted).

Q. But you recorded, "Sounded pumps and made an examination at eight o'clock"?

A. I generally put it that way I think. That was a general memorandum for myself, covering my day's work, not put down as an actual fact. Some of those things were put down later. The fact of my backing off at 9:28 and going ahead to Tacoma.

Q. The time reported for this examination at eight o'clock, was the time reported to you by the mate and must have been ship's time?

A. No, I looked at my watch. He came back after the examination and said, "I don't think the collision bulkhead is gone, sir." Before that I had started to go to Pully Point.

Q. In estimating how many feet you travelled a minute, how did you arrive at that?

A. We were making about six knots an hour, and 6080 feet to the knot. That would be taking ten minutes to make a mile.

Q. How did you arrive at your number of knots per hour?

A. From the distance between Browns and Robinsons.

Q. Did you take your time at Browns Point?

A. Yes, sir.

Q. You have not mentioned that before; do you know what time you passed Brown's Point?

A. About 6:35, I think.

Q. How far is it from Tacoma to Robinsons?

MR. HAYDEN: I object to that as not the best evidence.

Q. About how far from Tacoma to Robinsons?

A. About eight and one-half miles.

(Witness excused.)

Whereupon an adjournment was taken until 1:15 P. M.

1:15 P. M. Thursday, February 15th, 1912.

MR. JOHN PURDY, a witness called and sworn on behalf of the Libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Purdy.

Q. How old are you? A. Forty-six.

Q. How long have you been going to sea?

A. Thirty years.

Q. What was your position on the night of the collision of with the Virginian?

A. First mate of the steamer Strathalbyn.

Q. Were you aboard her at the time she left Tacoma? A. I was.

Q. Were you here while she was loading her lumber on her, as first mate? A. Yes, sir.

Q. How long have you been first mate aboard of her? A. Since she was built.

Q. How long is that?

A. Two years and four months.

Q. Were you the officer on watch during the time the Strathalbyn left Tacoma and until the collision and afterward?

A. Yes, sir; of course leaving Tacoma we would all be on watch or on duty.

Q. What time did you leave Tacoma?

A. Shortly after six; call it six o'clock, or six-five.

Q. When you were getting under way from Tacoma, what were you doing? A. Taking anchor.

Q. You were made fast in the Bay; anchored in the Bay? A. Yes, sir.

Q. Where were you bound for?

A. Sidney, Australia.

Q. How long were you engaged in taking in anchor and making things fast after you left Tacoma, after you got under way?

A. I dare say half an hour or 45 minutes.

Q. You were on the forecandle head during that time? A. Yes.

Q. When did you go on the bridge?

A. When I completed my duties.

Q. Where was your ship at that time?

A. She would be about abreast of Brown's Point, as I ascertained later on. It being dark, I could not see.

Q. Were you on the bridge at all times up to the time of the collision? A. I was.

Q. Along with Captain Beecher, the pilot?

A. Yes, sir.

Q. Do you remember the time you passed Brown's Point? A. About 35 minutes past six o'clock.

Q. Do you remember the time you passed Robinson's Point?

A. 7:28. Captain Beecher told me that though.

Q. How fast was the Strathalbyn traveling that night? A. I would say about six.

Q. Did anything unusual occur during the time you weighed anchor in Tacoma until you got to Robinson's Point? A. No.

Q. When you rounded Robinson's Point, did you notice any lights ahead? A. Yes, sir.

Q. What did you see?

A. I saw two steamers, and a little later Captain Beecher said it was Pully Point.

Q. Did you subsequently learn what those two steamers were? A. Yes, sir.

Q. What steamers were they?

A. A passenger boat, the Flyer, and a freighter, the Virginian.

Q. Do you remember a steamer passing you in the vicinity of Robinson's Point, going in the same direction you were? A. Yes, sir.

Q. Do you know what that steamer was?

A. The Indianapolis, I believe.

Q. About where did she pass you?

A. I think a little this side of Robinsons'.

Q. When you saw the Virginian and the Flyer, in what direction did they appear when you first saw them?

A. They appeared to me as if they were not quite fully up to Pully Point. Later, they would be exposing their port side to me.

Q. Do you remember whistling to the Flyer a passing signal? A. Yes, sir.

Q. What signal did you give her?

A. One blast.

Q. Was that answered? A. Yes, sir.

Q. Do you remember whistling to the Virginian?

A. Yes.

Q. When you first whistled to the Virginian, in about what direction from you was the Flyer?

A. On our port quarter. I had quite a look around to look at her.

Q. Now in your own way state what happened with the Virginian and the Strathalbyn after you gave the first whistle to the Virginian, commencing with the first whistle?

A. After the Flyer passed, the Virginian was well on our port, showing the red light. Our pilot blew a passing signal to him and I think ported the helm a little to give him a wide belt, and he did not appear to make any answer. So I believe I made the remark, I don't think he hears you, and then he blew another whistle. Just about that time I believe the Captain came up the bridge and I was standing in front of the passage-way on the ladder, so he asked me what was the matter. At this time I was looking at the steamer that had been showing the red light. At this time the red light was disappearing and the green light was fully in sight. So I merely pointed across and said the steamer had been showing the red light and is now showing green, has evidently changed his mind and is going to cross the boat. So he at once asked if our red light was all right, and I said I suppose so, and I went down the ladder and looked at it and came back and reported that the light was all right. Then I went out to the extreme end of our port side bridge, still looking at the steamer showing his green light. The pilot was in the middle of the bridge, and he then blew another blast, and very shortly after, I don't think it could be a minute, I heard him blow four, and I heard the jangle of the telegraph go over. When I heard the telegraph go over I crossed the bridge and looked and saw it was full speed astern. I passed them and went out where I had originally been, and stayed there until the crash came. Directly after the impact, after the shock, I left the bridge and ran forward to see if the man on the lookout had got out of the road.

Q. Did you hear any signals from the vessel ahead?

A. Yes.

Q. What signals did you hear from her?

A. I heard them blow three blasts of the whistle.

Q. When?

A. At about the same time as the crash came.

Q. Did you notice whether or not at that time the vessel had appeared to be backing?

A. No, I could not say I saw that.

Q. Do you remember as a matter of fact whether Captain Beecher ordered the helm to port on the second whistle to the Virginian? A. Yes.

Q. Do you know whether he did on the third?

A. Not on the third.

Q. How was your vessel loaded. A. With lumber.

Q. Did she have deck loads? A. Yes.

Q. About how high was the deck load of lumber?

A. About the middle of the cabin windows, I think, maybe a little higher toward the side of the ship.

Q. This deck load of lumber was supported by stanchions, held into the ship by stanchions?

A. Yes, sir.

Q. In other words they came above the rail?

A. Oh, yes.

Q. Where was the red light on the Strathalbyn?

A. In the screen on the lower bridge.

Q. Did you observe any other light on the Strathalbyn except the red light? A. Oh, yes.

Q. What lights was the Strathalbyn carrying?

A. The usual regulations, green, starboard, and red on the port, and stern light.

Q. Do you know whether the masthead light was burning at the time of the collision and just before?

A. Yes, sir.

Q. How do you know?

A. I could see; at least I could see the reflection of it.

Q. Do you know whether the green light was burning at the time of the collision?

A. To the best of my knowledge it was.

Q. After Captain Beecher gave the porting signal to the Virginian, was the green light at any time thrown up to her so that it could have been seen by her?

A. No, sir.

Q. When you looked at the red light how did it appear to be burning? A. All right.

Q. Now had you been to sea with vessels that carry oil lamps? A. Yes, sir.

Q. Did you notice that there was anything about this light that time that made it any different from ordinary light that is thrown by the usual oil lamps on vessels? A. No, I did not.

Q. I believe in the Captain's testimony he spoke about your being able to testify as to the kind of oil and when it was obtained; do you not?

A. Colza is what we burned.

Q. And when was it obtained?

A. We bought a supply in July, in Barry dock, South Wales.

Q. Do you know the kind of oil it was?

A. Hamilton's Special.

Q. Hamilton's Special Colza? A. Yes, sir.

Q. Is that the regular kind of oil used in burning the side lamps? A. I think so.

Q. It is the same kind of oil that was burning in the masthead lamp, was it? A. Yes, sir.

Q. Do you know whether these lamps were burned before they were placed in their positions as you were starting away from Tacoma?

A. Yes, sir.

Q. When was that?

A. They were burning for fully half an hour in the afternoon between three and four o'clock?

Q. Where? A. In the lamp locker.

Q. Did you see them? A. No.

Q. The stanchions came up above the top of the oil lamps, did they?

A. Yes, sir, some of them.

Q. Did you observe whether or not these stanchions were inside the light so that the light would show directly ahead? A. Yes, sir.

Q. Were they?

A. To the best of my belief, they were.

Q. Did you have charge of fastening the deck load of lumber on to the vessel? A. Yes, sir.

Q. How is that done? A. In various ways.

Q. I am speaking of the way it was done in this instance?

A. After we lowered the derricks down, we used the spans for suspending the derricks; we used the spans; we suspended the derricks and made bridles of them, with a block in the bight, and set them up with the wire.

Q. So this is the hoist on your ship, and the part in the forward part of the sketch indicates the position of the deck load, this round ring being for the purpose of illustrating the foremast. Now draw on that the way these bridles were placed, commencing at the hawse?

A. The wire that suspends the derricks goes through here from the outside and shackles to the stanchion; that hole is the hawse plate; one end goes in here and the other end through the scupper hole here, and the bight or last portion is brought up over the deck to here—(indicating).

Q. Now indicate that?

A. Yes. There is a block there and another here; then there is another here; so that there are three altogether. I had two spans and this one over here was a chain through the scupper hole.

Q. And each side of the boat corresponded, did they? A. Yes, sir.

Q. Now show the main mast? A. About here.

Q. Now these things marked B are the blocks, are they?

A. Yes, sir. The windlass is here on the forecastle head.

Q. That is marked W?

A. Yes, sir. These are the bights on the forecastle head and leading lines to another block.

Q. I have marked this?

A. Yes, sir. And the wire was rove through these blocks in this way, criss-crossed.

Q. The wire was made fast to the starboard side of the ship? A. Yes, sir.

Q. And came up to the first block over the house on the starboard side? A. Yes, across the deck.

Q. To the port side?

A. Yes, and through that block.

Q. That is on the port side?

A. The block and chain.

Q. From the starboard side back to the other block and chain to the port side and crossed over to the block on your bridle, on the starboard side, and back over through the block in the bridle on the port side up to the lead block on the forecastle head, and over to the stem winch? A. Yes, that is it.

Q. What was the object of putting those bridles and blocks and lead rope in through there?

A. To bind the lumber together.

Q. So that it would carry at sea?

A. To prevent it from moving and taking loose.

Q. Did you put as much force as you could on with your steam winch?

A. As much as the wire will stand.

Q. What sized wire did you use?

A. The small marine wire off the forecastle head, 2 $\frac{3}{4}$ inch; that is the circumference.

Q. Now when you would tighten that up, what do the men do in connection with that work?

A. Everybody is lending a hand; one drives winch and others assist in running the wire through the blocks. Sometimes, when we do not have a block, we have a shackle, and a man generally stands by with a crow bar or hammer and touches it up.

Q. What is the object of that?

A. To assist in the tightening.

Q. What is the effect of that on the cargo?

A. It contracts or binds it together.

Q. It draws it together?

A. Yes, sir, holds it rigid and solid.

Q. After you get it drawn up tight together that way, what else do you do; that is what did you do on this occasion?

A. I had a couple of derrick guys around the up-rights and across the deck—that is the stanchions, that is my usual practice; I hook the tackle from one side to the other and tighten them.

Q. Did you do that on this occasion?

A. Yes, sir.

Q. Do you make these fast, that is the bridles, do you use anything else to hold the bridles in place?

A. They are shackled on to the ship.

Q. In the center of the ship between those blocks or is it just this line or wire rope?

A. It criss-crosses.

Q. That stays there all the time?

A. Yes; it remains there, and every few days as the wood dries, we tighten it up; sometimes oftener, according to the weather.

Q. What was the effect on this cargo of lumber at this time of tightening it up that way and putting the ropes around the stanchions and tightening them up?

A. It had the effect to keep the cargo in its place, and drawing it all together.

Q. It drew it more together? A. Oh, yes.

Q. Did it draw the stanchions in towards the center of the ship too?

MR. HUGHES: We object to that as leading.

MR. HAYDEN: I will withdraw that question.

A. When the weight is on the tackle, it must draw the stanchions close up against the lumber. It must have that tendency. In some cases we are required to block the stanchions off because they come in so far. We have to wedge them down, but we had not got that far in this case. I dare say a couple days afterwards we would have had to do it.

Q. Do you remember the size of the lumber on the forward deck?

A. It was all sizes, from 24 inch log to light scanty pieces.

Q. How was it on the other part of the deck?

A. I would call them ten inch deals.

Q. On the upper part of the cargo?

A. The upper portion of the cargo I think was faced off with 20 foot lengths, 2 inch boards.

Q. How wide would the boards be?

A. About 11 inches I think.

Q. How much of that did they have on the top?

A. I don't know; we had logs 18 inches square.

Q. That was down on the deck? A. Yes, sir.

Q. Did these stanchions at the time in question

when they were first put up, before you put the pressure on them, have any tumble home, or otherwise, if you noticed?

A. Oh, they always have a little hang in.

Q. You were on the bridge when you passed Robinson's Point; how long after you passed Robinson's Point would you say it was up to the time of the collision?

A. Oh, anything between 15 and 20 minutes.

Q. How far apart would you say the Virginian and the Strathalbyn were at the time you gave her your first whistle?

A. I dare say a mile and a half.

Q. What kind of a night was it?

A. It was a pretty dark night, but clear; you could see lights plain enough. The stars were out overhead, but the sky was banked down on the port side—a kind of a rain—squall making.

Q. The atmosphere was clear, was it?

A. Yes, sir.

Q. Did you notice any smoke that could have obscured the masthead light of the Strathalbyn at any time after passing Robinson's Point up to the time of the collision?

A. No, sir, not from our steamer.

Q. How high are the cross trees and the foremast on your steamer?

A. It is 41 feet to the sheave hole on the topmost.

MR. HUGHES: What is the sheave hole?

A. The heel of the topmast.

(BY MR. HAYDEN).

Q. State where the masthead light is positioned?

A. It is directly underneath the electric light.

Q. What arrangement have you for placing it in position?

A. The usual cage and two legs.

Q. When you put it up, how did you get it started up?

A. There is a fork—two iron rods, which go through these rings (indicating).

Q. Where are the rods?

A. At the cross-tree, at the top.

Q. Now you speak about putting the iron rods through these; what are these?

A. The rings on the side of the lamp.

Q. And the cage that the lamp goes in has similar rings corresponding to this? A. Yes, sir.

Q. How do you put it up?

A. They have those two prongs with the wire which runs through these rings, and the rope is bent in here and the man pulls it up. This keeps it in position. Of course you put the cage on—put this in the cage and then hoist it up. It keeps it perfectly steady; the wire is generally set up on deck.

Q. You have lead wires that go from the rings and lamps and pull it up and guide it on to the iron brackets under the electric lamp?

A. Yes, sir, that is it.

Q. Take this Exhibit C, and state whether or not—or rather, point out on that where the oil light would come?

A. I think as near as I recollect the pulley is underneath that lamp there. The two legs are about here (indicating); the two lead ropes or legs that it travels on must be straight up and down.

Q. The light would be positioned right under the electric light? A. Yes, sir.

Q. At the place where the cross is marked?

A. Yes, sir, when in position.

Q. Did you make any measurements in connection with ascertaining the position of the port light screen and height above the deck and matters of that kind?

A. You mean since this accident took place?

Q. Yes?

A. Yes; of course we took our observations off the lower bridge, so that we are pretty well acquainted with the height.

Q. What is the height of the lower bridge forward of the port light screen?

A. Fifteen feet four inches.

Q. What is the height of the light screen, if you know?

A. Eight and one-half inches, that is from the deck.

Q. What would be the height of the light?

A. I should say eight more.

Q. What is the width of the rail, the main deck rail?

A. Eleven inches and one-half, as near as I could get it; I never measured it.

Q. Was there anything inside of the main deck rail, right underneath and inside of it?

A. The water pipe on one side, on the port side.

Q. How much would that water pipe project beyond the railing?

A. It was well against the barricade; it is exposed altogether; I should say about an inch or an inch and one-half; about a quarter of the pipe exposed.

Q. What was the distance you gave as to the length of the rail; did you measure that, from the hawse forward to the forecandle?

A. I did not measure it, but I would say it was about 95 feet.

Q. In measuring the height of the light screen above the deck, how did you get at it?

A. With just an ordinary rule.

Q. I mean above the main deck?

A. I had a tape line.

Q. What kind of a tape line did you use?

A. An ordinary inch measure.

Q. Was it an ordinary cloth tape line?

A. Yes, sir.

Q. In dropping that line, did you drop it down from the inside of the screen; that is, taking the projection of the line forward along the inside of the screen; did you drop that line down? A. On the edge, yes.

Q. And how far did you say that came from the inside of the bulwarks? A. Four inches.

Q. Did you measure the distance from the inside of the screen out to the outside of where the lamp would be? A. To the outer edge of the screen?

Q. Yes.

A. It just fits the back of the lamp; I did not measure it.

Q. Did you notice whether or not the red rays of

the port light shown on the outside of any of these stanchions forward of the light?

A. I could see the reflection on both sides, the green and red one, on the after stanchions.

Q. Did you notice it ahead on any other stanchions, ahead of the after stanchions?

A. No, I don't think I saw it on any of the rest of them. I don't think so.

Q. Now what is the height if you know of the forecastle head? A. Eight feet.

Q. That is from the main deck up to the forecastle head deck it is eight feet? A. Yes, sir.

Q. You understood me to mean when I asked you about dropping the plumb line, when I said inside the bulwarks, you understood me to mean inside the bulwark rail, did you? A. Yes, sir; the main rail.

MR. HAYDEN: I now offer this for identification P, and also the chart B, which I am not quite sure that I offered.

Whereupon said documents were marked respectively Libellant's P and B.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. When did you make these measurements you have just been testifying to? A. The rails.

Q. The measurements or distance from the main deck, first to the bridge deck, and the height of the screens, and so forth?

A. The height of the screens is the measurement I took about a week ago.

Q. You testified to dropping a tape line from the bridge deck at the end of the screen down to the main deck? A. Yes, sir.

Q. When did you do that?

A. I could not tell the particular day.

Q. How long ago? A. About a week ago.

Q. Where was it? A. In Tacoma here.

Q. Before you went to Victoria? A. Yes, sir.

Q. Who was with you at the time; who helped you, if anyone?

A. I dare say the carpenter.

Q. Well, did he or didn't he?

A. I might have two or three helping me.

Q. But what did you do; did anybody?

A. The carpenter.

Q. The Captain was not with you at the time?

A. I do not think he was in the ship.

Q. You took an ordinary cloth tape line?

A. Yes, sir.

Q. Where did you stand when you took the measurement?

A. I would be at the light, holding the tape; that particular measurement only requires one.

Q. Then you made that measurement by yourself?

A. Yes, sir.

Q. The light was in the screen at the time?

A. Yes, sir.

Q. And you put the tape line down from the light and dropped it down? A. No.

Q. Where did you put it?

A. From the end of the screen.

Q. And did you have it weighted? A. Yes.

Q. What kind of a weight did you have on it?

A. A nut.

Q. Did you tie a nut on? A. Yes.

Q. Nobody helped you make that measurement?

A. No.

Q. Nobody was on deck below. A. No.

Q. How are you able to testify positively just what that measurement was; you were up on the bridge?

A. Yes, I had the tape in my hand.

Q. The end of the screen is a couple of feet back from the edge from which you dropped it, wasn't it?

A. I don't know just how far; it is back.

Q. It is at least a couple of feet, isn't it?

A. It may be less than that.

Q. Did you put it at the end of the screen, or go to the edge of the deck?

A. I extended to the end of the screen.

Q. Then you are giving us the whole length from the deck below to the deck above and back to the screen?

A. Oh, no.

Q. What are you trying to give; from one deck to the other?

A. The screen comes here, say, and the deck was a little further, and I extended it with a piece of lathing, and dropped the tape from the end of the lath to the deck.

Q. You didn't have anybody below there to test or straighten it out? A. No, not at that time.

Q. Nor to take any measurement of the distance you were inside the bulwark? A. No.

Q. You guessed at those things? A. No.

Q. You didn't go down and measure it? A. Yes.

Q. I thought you were up on the bridge?

A. I was for the time.

Q. Did you leave it hanging and then go down and measure?

A. No, I struck with my eye where it was and then measured it with a rule.

Q. You remembered with your eye and then went down and measured? A. Yes, sir.

Q. What measure did you get? A. Four inches.

Q. How could you tell anything about; you didn't have a tape line or plumb line hanging there; you had taken that away? A. Yes, sir.

Q. So that you had to guess at it? Are you sure you made any measurements at all?

A. Yes, sir, I am perfectly certain.

Q. You did not have the carpenter helping you at all on second thought?

A. On that particular measurement, no; I took that myself.

Q. What measurement did you have the carpenter help you on?

A. When I measured across the ship.

Q. The width of the ship? A. Yes.

Q. What other measurements did he help you to make?

A. He measured from the deck to the screen.

Q. I thought you said he was not with you then.

A. I am speaking from the lower bridged deck to the screen.

Q. That was only 8 inches; you could measure that?

A. He measured that with a hand rule and I marked it down.

Q. Did you measure the distance from the screen board to the end of the bridge? A. No, sir.

Q. You did not measure that? A. No.

Q. There is a screen here on Respondent's Exhibit 4, on the lower bridge, that corresponds to the screen that you see at A on the upper bridge? A. Yes, sir.

Q. It is not so distinctly shown on the lower bridge as it is on the upper bridge, in this photograph?

A. It is not so clear cut.

Q. But it is practically on the lower bridge just as it appears in the photograph on the upper bridge?

A. It is not so clearly cut.

Q. But on the ship it is, the lower screen is constructed just like this one on the upper bridge?

A. Yes, sir, the construction is the same.

Q. And its relative distance from the end of the bridge would be about the same?

A. Possibly not; the bridge is higher.

Q. But it also does not go out quite so far as the lower bridge deck, does it, so that there would be a little more space between the screen and the end of the bridge on the lower bridge than the upper one?

MR. HAYDEN: We object to that as immaterial.

A. I could not say as to that.

Q. You didn't measure that, did you? A. No.

Q. You don't know how many inches it is then from the screen out to the end of that lower bridge deck?

A. No, I don't know that.

Q. Do you know how much those stanchions that stand on the lower bridge deck are inside of the outer rim of the ship's rail there?

A. No, I do not know that.

Q. What is the width of the ship's rail?

A. Eleven inches and a half, I would say.

Q. Is there an open space under that rail?

A. Certainly, directly underneath, just like the edge of this table.

Q. The rail extends about 11 inches or so, and four or six inches thick? A. Oh, no.

Q. How far?

A. I would say about two and one-half.

Q. And under it, there is a space back to the ship's side? A. Yes.

Q. And this pipe you see coming out from under the saloon or cabin deck comes along and passes under the ship's rail?

A. Not wholly underneath.

Q. But as you come along it does?

A. Not entirely underneath.

Q. It would interfere with the stanchions so that they could not set right up against the rail? A. No.

Q. The stanchions do set against the ship's rail, didn't they here?

A. No; we had a chafing piece between them to keep it off the pipe.

Q. You did back nearer the saloon cabin?

A. Oh, it is entirely exposed at the saloon cabin.

Q. But passes under as you come forward?

A. About three-fourths under.

Q. On which side did you take the measurements, port or starboard?

A. On both sides.

Q. You measured the height of the screen on the starboard side? A. Yes, sir.

Q. Where did you drop the plumb line from the screen down to the main deck?

A. Right against the bulkhead.

Q. On the starboard side? A. On both sides.

Q. Was it the same on both sides?

A. As near as I remember, yes.

Q. Did you take this tape line with the nut and drop it from the edge of the lower bridge deck on the starboard side down to the main deck? A. Yes, sir.

Q. And measured the height of that? A. Yes.

Q. Did you attempt to measure the distance it crossed there, from that to the rail?

A. No, not on that side.

Q. As a matter of fact you could not make that measurement very well because this rail is three or four feet above the deck? A. Four feet.

Q. And at the point where your plumb line would strike the deck would be four feet below the rail?

A. Yes.

Q. And the rail projects out over more than half its width, doesn't it? A. Yes.

Q. Over the ship's deck. A. Yes.

Q. That is you have the thickness of the ship's structure under the rail? A. Yes, sir.

Q. Did you drop a line from the edge of the ship's rail to the deck when you attempted to measure that four inches on the deck? A. No.

Q. Then it would be nothing but a guess, would it?

A. I measured it with a foot rule.

Q. But you would have nothing to measure by?

A. I had a pipe.

Q. But you had no mark or point to measure from except your recollection from seeing it above and trying to check up that point and measure over to the point under the edge of the rail? A. No, I don't think so.

Q. You say the carpenter helped you measure the width of the deck? A. Yes, sir.

Q. What was the width of the deck at the place right in front of the saloon cabin?

A. Forty-eight feet eight inches.

Q. Was that measured to the inside of the rail or to the ship's side underneath the rail?

A. Two inches of the rail, edge to edge.

Q. Then how much space would there be under the ship's rail that you did not measure?

A. There might be six inches.

Q. On each side? A. Yes.

Q. Did you measure the width of the ship at the forecastle bulkhead?

A. I did, but I do not remember what it was.

Q. Did the carpenter help you?

A. He held the tape.

Q. Did you announce the measurements to him?

A. No, I think he announced it to me.

Q. Is he here. A. Yes.

Q. What is your best recollection of the width of the ship at the forecastle bulkhead?

A. I could not give it accurate, but as near as I can remember I think it is 43 feet 6 inches, but I would not say for certain.

Q. What is the distance from the saloon cabin to the forecastle bulkhead? A. I don't know.

Q. Did you measure that? A. No.

Q. Somewhere over 90 feet, to 100?

A. I have had 84 logs on it.

Q. So that it is at least more than 84 feet?

A. I would say 90 at least.

Q. What is the sheer of the deck; how much does it rise from the saloon cabin forward to the forecastle in that 90 feet?

A. Do you want it approximately?

Q. If that is the best you can do?

A. I don't know exactly, but as near as I know it is 15 inches.

Q. Isn't it considerably more than that; it would appear so from the looks of the ship?

A. I don't think so; it might be.

Q. What is the height of the deck on top of the forecastle cabin, above the main deck? A. Eight feet.

Q. Is the top of the forecastle cabin about level with the floor of the lower bridge?

A. A little higher; six inches higher.

Q. How much was the lumber cargo at the front end above the bridge or deck of the forecastle cabin?

A. Above the deck?

Q. I mean the cover of the forecastle cabin?

A. About six feet I think; maybe a little less; I never measured.

Q. How near did your cargo of lumber come to the door of your forecastle cabin?

A. In loading the deck cargo, we leave that space vacant.

Q. In front of the door? A. Yes.

Q. How much space did you leave vacant there?

A. You simply make steps; the first one is close and the next is further, and so on.

Q. So that you can step down into the forecastle cabin? A. Into the passage leading in.

Q. But on either side of the passage you carry the cargo up to the bulkhead?

A. No, we must have sufficient room for the doors in the forecastle cabin to open.

Q. But outside of that you carry the deck load clear up to the bulkhead?

A. We have oil lockers, paint lockers, W. C. and so forth.

Q. So that you have to leave a space of a few feet?

A. Yes, sir.

Q. Between the forecastle and deck load?

A. Sufficient for the doors to open?

Q. Was your deck load held in place in front of the forecastle cabin with stanchions also? A. No.

Q. How did you hold your deck load in place there at the time?

A. I don't quite understand; it don't require any holding there.

Q. It didn't require any? A. No.

Q. On account of the lumber being held length-wise. A. Yes.

Q. Your stanchions were placed then along the port and starboard sides of the ship? A. Yes.

Q. What are the sizes of these stanchions?

A. Regular, from 20 foot to 16; some 20 and some 16.

Q. Sixteen to twenty feet long? A. Yes, sir.

Q. How were they made fast on the two sides of the ship?

A. That was done before you began to load, wasn't it? A. How were they made fast?

Q. How were the stanchions made fast?

A. They were steadied with a couple of ropes until the timber is layed, and that keeps them in position.

Q. They are placed there and held in place by ropes until you lay the timber at the bottom up high enough to press them against the ship's side to hold them in place? A. Yes, sir.

Q. The ship's rail? A. Yes, sir.

Q. And that ship's rail being about four feet high, that anchorage is enough to hold them? A. Oh, yes.

Q. Without making them fast any other way?

A. Yes.

Q. Then they are placed there in position before you begin to load your cargo? A. Yes.

Q. Of course they must be stood up on end?